

28-72



Kansas Administrative Regulations Kansas Department of Health and Environment

Notice to Reader

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Where possible KDHE will append changed regulations to the appropriate article. Once again, the lack of any attachments should not be construed as meaning there are no revisions.

Nothing contained herein should be construed as legal advice by KDHE. If you are not an attorney, you should secure competent counsel to interpret the regulations and advise you.

Office of Public Information
Kansas Department of Health and Environment

Notes

The *Kansas Register* notes the following changes:

28-72-1 thru -22	New	V. 51, p. 1888
28-72-51 thru -54	New	V. 19, p. 989

**Article 72.--RESIDENTIAL CHILDHOOD LEAD
POISONING PREVENTION PROGRAM**

28-72-1. Definitions. In addition to the definitions contained in L. 1999, Ch. 99, Sec. 3, and amendments thereto, the following definitions shall apply to the residential childhood lead poisoning prevention act.

(a) "Accreditation" means approval by KDHE of a training provider for a training course to train individuals for lead-based paint activities.

(b) "Accredited course" means a course that has been approved by the department for the training of lead professionals.

(c) "Act" means the residential childhood lead poisoning prevention act, and amendments thereto.

(d) "Adequate quality control" means a plan or design that ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control shall also include provisions for representative sampling.

(e) "Audit" means the monitoring by KDHE of a training provider for a training course to ensure compliance with the act and this article.

(f) "Certified elevated blood lead (EBL) level inspector" or "EBL inspector" means a person who meets the requirements of K.A.R. 28-72-6 and who is certified by the department.

(g) "Certified lead abatement supervisor" or "lead abatement supervisor" means an individual who is trained by an accredited training program, as defined in this act, and certified by the department under K.A.R. 28-72-8 to supervise workers, conduct lead abatement activities, and to prepare occupant protection plans and abatement reports.

(h) ``Certified lead abatement worker" or ``lead abatement worker" means a person who meets the requirements of K.A.R. 28-72-7 and who is certified by the department.

(i) ``Certified lead inspector" or ``lead inspector" means a person who meets the requirements of K.A.R. 28-72-5 and who is certified by the department. A certified inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

(j) ``Certified lead professional" means a person who is certified by the department as a lead inspector, elevated blood lead (EBL) level inspector, lead abatement supervisor, lead abatement worker, project designer, or risk assessor.

(k) ``Certified project designer" or ``project designer" means a person who meets the requirements of K.A.R. 28-72-9 and who has been certified by the department.

(l) ``Certified risk assessor" or ``risk assessor" means a person who meets the requirements of K.A.R. 28-72-6 and who is certified by the department.

(m) ``Child-occupied facility" means a building, or portion of a building, constructed before 1978, visited by the same child six years of age or under, on at least two different days within any seven consecutive days, if each day's visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities shall include day care centers, preschools, and kindergarten classrooms.

(n) ``Classroom training" means training devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or any combination of these educational activities.

(o) ``Clearance levels" means the values that indicate the maximum amount of lead permitted in dust on a surface following completion of each abatement activity.

These values shall be 50 micrograms per square foot on uncarpeted floors, 250 micrograms per square foot on windowsills, and 800 micrograms per square foot on window troughs.

(p) ``Common area" means a portion of the building that is generally accessible to all occupants. Such an area may include the following:

- (1) Hallways;
- (2) stairways;
- (3) laundry and recreational rooms;
- (4) playgrounds;
- (5) community centers;
- (6) garages; and
- (7) boundary fences.

(q) ``Component" or ``building component" means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. Components shall include the following:

- (1) Interior components, including the following:
 - (A) Ceilings;
 - (B) crown moldings;
 - (C) walls;
 - (D) chair rails;
 - (E) doors and door trim;
 - (F) floors;

- (G) fireplaces;
- (H) radiators and other heating units;
- (I) shelves and shelf supports;
- (J) stair treads, risers, and stringers; newel posts; railing caps; and balustrades;
- (K) windows and trim, including sashes, window heads, jambs, sills, or stools, and troughs;
- (L) built-in cabinets;
- (M) columns and beams;
- (N) bathroom vanities;
- (O) countertops; and
- (P) air conditioners; and
- (2) exterior components, including the following:
 - (A) Painted roofing and chimneys;
 - (B) flashing, gutters, and downspouts;
 - (C) ceilings;
 - (D) soffits and fascias;
 - (E) rake boards, cornerboards, and bulkheads;
 - (F) doors and door trim;
 - (G) fences;
 - (H) floors;
 - (I) joists;
 - (J) latticework;

(K) railings and railing caps;

(L) siding;

(M) handrails;

(N) stair risers, treads, and stringers;

(O) columns and balustrades;

(P) windowsills or window stools, troughs, casing, sashes and wells; and

(Q) air conditioners.

(r) ``Containment" means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

(s) ``Course agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

(t) ``Course exam blueprint" means written documentation identifying the proportion of course exam questions devoted to each major topic in the course curriculum.

(u) ``Course test" means an evaluation of the overall effectiveness of the training, which shall test each trainee's knowledge and retention of the topics covered during the course.

(v) ``Department" means the Kansas department of health and environment.

(w) ``Deteriorated paint" means paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

(x) ``Discipline" means one of the specific types or cat-

egories of lead-based paint activities identified in this act in which individuals may receive training from accredited courses and become certified by the department.

(y) "Distinct painting history" means the application history, as indicated by the visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

(z) "Documented methodologies" means methods or protocols used to sample for the presence of lead in paint, dust, and soil.

(aa) "Elevated blood lead level (EBL) child" or "EBL child" means any child who has an excessive absorption of lead with a confirmed concentration of lead in whole blood of 10 μg (micrograms) of lead per deciliter of whole blood from a single venous test.

(bb) "Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

(cc) "Encapsulation" means the application of an encapsulant.

(dd) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between the lead-based paint and the environment.

(ee) "EPA" means the United States environmental protection agency.

(ff) "Guest instructor" means an individual who is designated by the training program manager or principal instructor and who provides instruction specific to the lectures, hands-on work activities, or work practice components of a course.

(gg) "Hands-on skills assessment" means an evalua-

tion of the effectiveness of the hands-on training that tests the ability of the trainees to demonstrate satisfactory performance of work practices and procedures as well as any other skills demonstrated in the course.

(hh) ``Hands-on training" means training that involves the actual practice of a procedure, the use of equipment, or both.

(ii) ``Hazardous waste" means any waste as defined in K.S.A. 65-3430, and amendments thereto.

(jj) ``Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including the following:

- (1) Repairing deteriorated lead-based paint;
- (2) specialized cleaning;
- (3) maintenance;
- (4) painting;
- (5) temporary containment;
- (6) ongoing monitoring of lead-based paint hazards or potential hazards; and
- (7) the establishment and operation of management and resident education programs.

(kk) ``KDHE" means the Kansas department of health and environment.

(ll) ``Large-scale abatement project" means a lead abatement project consisting of 10 or more dwellings.

(mm) ``Lead abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards in a residential dwelling or child-occupied facility.

(1) Lead abatement shall include the following:

(A) The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil;

(B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with these measures;

(C) projects for which there is a written contract or other documentation requiring an individual to conduct activities in or to a residential dwelling or child-occupied facility that will result in or are designed to permanently eliminate lead-based paint hazards;

(D) projects resulting in the permanent elimination of lead-based paint hazards;

(E) projects resulting in the permanent elimination of lead-based paint hazards that are conducted by lead activity firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint abatement; and

(F) projects resulting in the permanent elimination of lead-based paint that are conducted in response to an abatement order.

(2)(A) Lead abatement shall not include renovation, remodeling, landscaping, or other activities when these activities are not designed to permanently eliminate lead-based paint hazards, but are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

(B) Lead abatement shall not include interim controls, operations and maintenance activities, or other measures

and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

(nn) ``Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-based paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.

(oo) ``Lead-contaminated dust" means surface dust in residential dwellings or child-occupied facilities that contains in excess of 50 micrograms per square foot on uncarpeted floors, 250 micrograms per square foot on windowsills, and 800 micrograms per square foot on window troughs.

(pp) ``Lead-contaminated soil" means bare soil on residential real property and on the property of a child-occupied facility that contains lead in excess of 400 parts per million for areas where child contact is likely and in excess of 2,000 parts per million where child contact is not likely.

(qq) ``Lead hazard screen" means a limited risk assessment activity that involves limited paint and dust sampling as described in 40 C.F.R. 745.227(c). Specifically, in a residential dwelling, two composite samples shall be taken from the floors and one from the windows in rooms where one or more children, age 72 months and under, are most likely to come into contact with dust. Additionally, in multi-family dwellings and child-occupied facilities, composite dust samples shall be taken from any common areas where one or more children age 72 months and under are likely to come into contact with dust.

(rr) ``Lead inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and a determination of the existence, nature, severity, and location of lead-based paint hazards in an entire residential dwelling or child-occupied facility and the provision of a written report explaining the results of the investigation and options for reducing lead-based paint hazards

to the person requesting the lead inspection.

(ss) ``Licensed lead activity firm," ``lead activity firm," or ``firm" means an association, company, corporation, partnership, sole proprietorship, or other business entity that performs lead-based paint activities to which the department has issued a license of approval.

(tt) ``Living area" means any area of a residential dwelling used by at least one child, six years of age and under, including the following:

(1) Living rooms;

(2) kitchen areas;

(3) dens;

(4) playrooms; and

(5) children's bedrooms.

(uu) ``Local government" means a county, city, town, borough, parish, district, association, or other public body, including an agency comprised of two or more of the foregoing entities, created under state law.

(vv) ``Multi-family dwelling" means a structure that contains more than one separate residential dwelling unit used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

(ww) ``National third-party examination" means a discipline-specific examination administered by the department to test the knowledge of a person who has completed an approved training course and is applying for certification in a particular discipline.

(xx) ``Nonprofit" means an entity that has demonstrated to any branch of the federal government or to a state, municipal, tribal, or territorial government that no part of its net earnings inure to the benefit of any private

shareholder or individual.

(yy) ``Occupation" means one of the specific types or categories of lead-based paint activities identified in this article for which individuals may receive training from accredited training providers. This term shall include lead inspector, risk assessor, lead abatement worker, lead abatement supervisor, project designer, or any combination of these.

(zz) ``Occupant protection plan" means a plan developed by a licensed lead activity firm before the commencement of lead abatement in a residential dwelling or child-occupied facility that describes the measures and management procedures to be taken during lead abatement to protect the building occupants from exposure to any lead-based paint hazards.

(aaa) ``Oral exam" is equivalent to the written exam in content, but is read to the student by the principal instructor. The student shall be required to provide his or her answers to the exam in writing.

(bbb) ``Passing score" means a grade of 70% or better on the national third-party examination and training course examination for a lead occupation certificate.

(ccc) ``Permanently covered soil" means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, including pavement and concrete. Grass, mulch, and other landscaping materials shall not be considered permanent covering.

(ddd) ``Principal instructor" means an individual who has the primary responsibility for organizing and teaching a particular course.

(eee) ``Project design" means lead abatement project designs, occupant protection plans, and lead abatement reports.

(fff) ``Reaccreditation" means the renewal of accredi-

tation of a training provider for a training course after the expiration of the initial accreditation.

(ggg) ``Reciprocity" means an agreement between KDHE and other states who have similar licensing provisions.

(hhh) ``Recognized laboratory" means either of the following:

(1) A laboratory that is a member of the environmental lead laboratory accreditation program (ELLAP) and that is a successful participant in the environmental lead proficiency and analytical testing (ELPAT) program; or

(2) a laboratory that is a member of the national lead laboratory accreditation program (NLLAP).

(iii) ``Reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(jjj) ``Refresher course" means a course taken by a certified lead professional to maintain certification in a particular discipline.

(kkk) ``Renewal" means the reissuance of a lead occupation certification, a lead activity firm license, or a training provider accreditation.

(lll) ``Risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards in a residential dwelling or child-occupied facility and the provision of a written report explaining the results of the investigation and options for reducing lead-based paint hazards.

(mmm) ``State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any territory or possession of the United States.

(nnn) ``Target housing" means housing constructed before 1978 with the exception of any zero-bedroom housing or housing for the elderly or for persons with disabilities, unless any one or more children age 72 months or under reside or are expected to reside in the housing for the elderly or persons with disabilities.

(ooo) ``Training course" means the course of instruction established by this article to prepare an individual for certification in a single occupation.

(ppp) ``Training curriculum" means an established set of course topics for instruction by an accredited training provider for a particular occupation designed to provide specialized knowledge and skills.

(qqq) ``Training hour" means at least 50 minutes of actual learning, including time devoted to lectures, learning activities, small group activities, demonstrations, evaluations, and hands-on experience.

(rrr) ``Training manager" means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

(sss) ``Training provider" means a person or entity providing training courses for the purpose of state certification or certification renewal in the occupations of lead inspector, risk assessor, lead abatement worker, lead abatement supervisor, and project designer.

(ttt) ``Visual inspection for clearance testing" means the visual examination of a residential dwelling or a child-occupied facility following an abatement to determine whether or not the abatement has been successfully completed.

(uuu) ``X-ray fluorescence analyzer (XRF)" means an instrument that determines lead concentrations in milligrams per square centimeter (mg/cm²) using the principle of x-ray fluorescence. (Authorized by and implementing

L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-2. General requirements for licensure and

certification. (a) Waiver. Applicants for certification or certified individuals may authorize others, including their employer, to act on their behalf regarding their certification application. This authorization shall be indicated on the application form provided by KDHE. If at any time the applicant or certified individual decides to change this authorization, the applicant or certified individual shall notify KDHE in writing of the change.

(b) Change of address. Each certified individual shall notify KDHE in writing of a change of mailing address no later than 30 days following the change. Each licensed lead activity firm shall notify KDHE in writing of a change in business mailing address no later than 30 days following the change. Until a change of address is received, all correspondence shall be mailed to the individual's mailing address and the lead activity firm's business address indicated on the most recent application form.

(c) Reciprocity. A lead occupation certification may be issued by KDHE to any person or a license may be issued by KDHE to any lead activity firm that has made application and provided proof of certification or licensure from the EPA or from another state, if KDHE has entered into a reciprocity agreement with that state and the individual certification fees have been paid.

(d) Grandfather provision. If an individual has completed a lead-based paint hazard training course between October 1, 1990 and March 1, 1999, that individual may receive certification by completing a refresher training course from an approved training provider, paying the individual certification fees, and, if applicable, passing the national third-party exam. An individual shall have until May 6, 2000 to apply to KDHE for certification under this subsection. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-3. Fees. The following fees shall apply: (a)

Training providers.

(1) Accreditation fee	\$1,000
(2) Initial fee.	
(A) Lead abatement supervisor, lead abatement worker, and project designer courses	\$1,000
(B) Risk assessor and lead inspector courses	\$1,000
(3) Refresher fee.	
(A) Lead abatement supervisor, lead abatement worker, and project designer courses	\$500
(B) Risk assessor and lead inspector courses	\$500
(4) Reaccreditation fee	\$1,000
(A)(i) Reaccreditation for lead abatement supervisor, lead abatement worker, and project designer courses	\$1,000
(ii) Reaccreditation for risk assessor and inspector courses	\$1,000
(B)(i) Refresher reaccreditation for lead abatement supervisor, lead abatement worker, and project designer courses	\$500
(ii) Refresher reaccreditation for risk assessor and lead inspector courses	\$500
(b) Lead inspector.	
(1) Individual certification	\$200
(2) Individual recertification	\$100
(3) Certification by reciprocity	\$200
(c) Risk assessor.	
(1) Individual certification	\$300
(2) Individual recertification	\$150
(3) Certification by reciprocity	\$300

(d) Lead abatement supervisor.

(1) Individual certification	\$150
(2) Individual recertification	\$75
(3) Certification by reciprocity	\$150
(e) Project designer.	

(1) Individual certification	\$150
(2) Individual recertification	\$75
(3) Certification by reciprocity	\$150
(f) Lead abatement worker.	

(1) Individual certification	\$50
(2) Individual recertification	\$25
(3) Certification by reciprocity	\$50
(g) National third-party examination	\$50
(h) Lead activity firm.	

(1) License	\$500
(2) License renewal	\$250
(3) Lead abatement project fee 1% of each project	
(4) Licensure by reciprocity	\$500

Before qualifying for a fee exemption, a local health department or clinic shall have received a certificate from KDHE for elevated blood lead level investigation risk assessments. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-4. Training provider accreditation. (a) Good standing. Every individual or firm desiring accreditation of the training courses for lead inspector, risk assessor, lead abatement worker, lead abatement supervisor, or project designer, or any combination, under this regulation who is required to be registered and in good standing

with the Kansas secretary of state's office shall submit a copy of the individual's or firm's certificate of good standing to KDHE.

(b) Application for accreditation of a training provider for a training course. Completed applications shall be mailed to the Kansas department of health and environment.

(1) The application shall include the following:

(A) A completed training provider course accreditation application on a form provided by KDHE, which shall include the following:

(i) The training provider's name, address, and telephone number;

(ii) the name and date of birth of the training manager;

(iii) the name and date of birth of the principal instructor for each course;

(iv) a list of locations at which training will take place;

(v) a list of courses for which the training provider is applying for accreditation; and

(vi) a statement signed by the training manager certifying that the information in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4 through K.A.R. 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

(B) a copy of the student and instructor manuals;

(C) the course agenda;

(D) the course examination blueprint;

(E) a copy of the quality control plan as described in paragraph (d)(8) of this regulation;

(F) a copy of a sample course certificate as described in paragraph (d)(7) of this regulation;

(G) a description of the facilities and equipment to be used for lectures and hands-on training;

(H) a description of the activities and procedures that will be used for conducting the skills assessment for each course;

(I) a check or money order for the applicable nonrefundable accreditation fees specified in K.A.R. 28-72-3, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization and is therefore exempt from these fees;

(J) documentation supporting the training manager's and principal instructor's qualifications.

(c) Procedure for issuance or denial of training provider accreditation for a training course.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in denial of the application for a training course accreditation.

(iii) After the information in the written notice is received, the applicant shall be informed by KDHE in writ-

ing that the application is either approved or denied.

(2) If an application is approved a two-year accreditation certificate shall be issued by KDHE.

(3) If an application for training course accreditation is denied, the specific reasons for the denial shall be stated by KDHE in the notice of denial to the applicant.

(A) Training course accreditation may be denied by KDHE for any of the following reasons:

(i) Failure of the training manager or principal instructor, or both, to satisfy the experience requirements;

(ii) three or more citations or violations within the past two years, by the training manager or principal instructor, of any existing local, state, or federal lead-based paint activity regulations or standards;

(iii) false or misleading statements in the application;

(iv) false records, instructor qualifications, or other accreditation-related information or documentation;

(v) failure of the applicant to submit a complete application; or

(vi) final disciplinary action, for any violation of lead-based paint activity standards, against a training provider by another state, territory, federal agency or country, whether or not voluntarily agreed to by the training provider, including the denial of accreditation, surrender of the accreditation, allowing the accreditation to expire or lapse, or discontinuing or restricting the accreditation while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(B) If an application is denied, the applicant may reapply for accreditation at any time.

(C) If an applicant is aggrieved by a determination to deny accreditation, the applicant may request a hearing

by the department in accordance with the Kansas administrative procedure act.

(d) Requirements for accreditation of a training provider for a training course. For a training provider to maintain accreditation from KDHE to offer a training course, the training provider shall meet the following requirements:

(1) Training manager. The training provider shall employ a training manager who meets the requirements in subsection (e) of this regulation. The training manager shall be responsible for ensuring that the accredited training provider complies at all times with all of the requirements in these regulations. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(2) Principal instructor. The training provider, in coordination with the training manager, shall designate a qualified principal instructor who meets the requirements in subsection (f) of this regulation. The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course materials.

(3) The training provider shall meet the curriculum requirements set forth in K.A.R. 28-72-4a for each course contained in the application for accreditation of a training provider.

(4) Delivery of course. The training provider shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course exam, hands-on training, and assessment activities. This shall include providing training equipment that reflects current work practice standards set forth in K.A.R. 28-72-13 through K.A.R. 28-72-21 and maintaining or updating the course materials, equipment, and facilities as needed.

(5) Course exam. For each course offered, the training provider shall conduct a monitored, written course exam at the completion of each course. An oral exam may be

administered in lieu of a written course exam for the lead abatement worker course only. If an oral examination is administered, the student shall be required to provide the answers to the exam in writing.

(A) The course exam shall evaluate the trainee's competency and proficiency.

(B) All individuals shall pass the course exam in order to successfully complete any course and receive a course completion certificate. The passing score on the course exam shall be 70%.

(C) The training provider and the training manager shall be responsible for maintaining the validity and integrity of the course exam to ensure that it accurately evaluates each trainee's knowledge and retention of the course topics.

(6) Hands-on skills assessment. For each course offered, except for project designers, the training provider shall conduct a hands-on skills assessment. The training manager shall maintain the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates each trainee's performance of the work practice procedures associated with the course topics.

(7) Course completion certificate. The training provider shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include the following:

(A) The name, a unique identification number, and the address of the individual;

(B) the name of the particular course that the individual completed;

(C) the dates of course completion or exam passage; and

(D) the name, address, and telephone number of the training provider.

(8) Quality control plan. The training manager shall develop and implement a quality control plan. The plan shall be used to maintain or progressively improve the quality of the accredited provider.

(A) This plan shall contain at least the following elements:

(i) Procedures for periodic revision of training materials and the course exam to reflect innovations in the field;

(ii) procedures for the training manager's annual review of principal instructor competency; and

(iii) a review to ensure the adequacy of the facilities and equipment.

(B) An annual report discussing the results of the quality control plan shall be submitted to KDHE one year following accreditation and at renewal.

(9) Access by KDHE. The accredited training provider shall allow KDHE to conduct audits as needed in order for KDHE to evaluate the training provider's compliance with KDHE accreditation requirements. During this audit, the training provider shall make available to KDHE all information necessary to complete the evaluation. At KDHE's request, the training provider shall also make documents available for photocopying.

(10) Recordkeeping. The accredited training provider shall maintain at its principal place of business, for at least five years, the following records:

(A) All documents specified in paragraph (e)(2) and (f)(2) of this regulation that demonstrate the qualifications listed in paragraph (e)(1) of this regulation for the training manager, and paragraph (f)(1) of this regulation for the principal instructor;

(B) curriculum or course materials, or both, and documents reflecting any changes made to these materials;

(C) the course examination and blueprint;

(D) information regarding how the hands-on skills assessment is conducted, including the following:

(i) The name of the person conducting the assessment;

(ii) the criteria for grading skills;

(iii) the facilities used;

(iv) the pass and fail rate; and

(v) the quality control plan as described in paragraph (d)(8) of this regulation;

(E) results of the students' hands-on skills assessments and course exams, and a record of each student's course completion certificate; and

(F) any other material not listed in this paragraph (d)(10) that was submitted to KDHE as part of the training provider's application for accreditation.

(11) Course notification. The accredited training provider shall notify KDHE in writing 14 calendar days before conducting an accredited training course.

(A) The notification shall include the following information:

(i) The location of the course, if it will be conducted at a location other than the training provider's training facility;

(ii) the dates and times of the course;

(iii) the name of the course; and

(iv) the name of the principal instructor and any guest instructors conducting the course.

(B) If the scheduled training course has been changed or canceled, the accredited training provider shall notify

KDHE in writing no less than 24 hours before the training course was scheduled to begin.

(12) Changes to a training course. Once a training course has been accredited, any changes in any of the following items shall be submitted in writing to KDHE for review and approval before the continuation of the training course:

(A) The course curriculum;

(B) the course examination;

(C) the course materials;

(D) the training manager or principal instructors, or both; or

(E) the certificate of completion.

Within 60 calendar days of receipt of a change to a training course, the provider shall be informed by KDHE in writing that the change is either approved or disapproved. If the change is approved, the accredited training provider shall include the change in the training course. If the change is disapproved, the accredited training provider shall not include the change in the training course.

(13) Change of ownership. If an accredited training provider changes ownership, the new owner shall notify KDHE in writing at least 30 calendar days before the change of ownership becomes effective. The notification shall include a new training course provider accreditation application, the appropriate fee or fees, and the date that the change of ownership will become effective. The new training course provider accreditation application shall be processed pursuant to this regulation. The current training provider's accreditation shall expire on the effective date set forth in the notification of the change of ownership.

(14) Change of address. The accredited training provider shall submit to KDHE a written notice of the accredited training provider's new address and telephone

number, and a description of the new training facility, and shall submit this information to KDHE not later than 30 days before relocating its business or transferring its records.

(e) Training, education, and experience requirements for the training manager.

(1) The education or experience requirements for the training manager shall include one year of experience in lead or asbestos abatement, painting, carpentry, renovation, remodeling, safety and health, or industrial hygiene, and at least one of the following:

(A) A minimum of two years of experience in teaching or training adults;

(B) a bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, business administration, or education; or

(C) a minimum of two years of experience in managing a training program specializing in environmental hazards.

(2) The following records of experience and education shall be recognized by KDHE as evidence that the individual meets or exceeds KDHE requirements for a training manager:

(A) Resumes, letters of reference from past employers, or documentation to evidence past experience that includes specific dates of employment, the employer's name, address, telephone number, and specific job duties, as evidence of meeting the experience requirements; and

(B) official academic transcripts or diplomas, as evidence of meeting the education requirements.

(f) Training, education, and experience requirements for the principal instructor.

(1) The training, education, and experience require-

ments for the principal instructor of a training course shall include all of the following:

(A) Successful completion of at least 24 hours of any KDHE- or EPA-accredited lead-specific training;

(B) a minimum of one year of experience in teaching or training adults; and

(C) a minimum of one year of experience in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene, or an associate degree or higher from a postsecondary educational institution in building construction technology, engineering, safety, public health, or industrial hygiene.

(2) The following records of experience and education shall be recognized by KDHE as evidence that the individual meets or exceeds KDHE requirements for a principal instructor:

(A) Course completion certificates issued by the KDHE- or EPA-accredited training provider as evidence of meeting the training requirements;

(B) official academic transcripts or diplomas, as evidence of meeting the education requirements; and

(C) resumes, letters of reference from past employers, or documentation to evidence past experience that includes specific dates of employment, the employer's name, address, telephone number, and specific job duties, as evidence of meeting the experience requirements.

(g)(1) Training provider accreditation may be restricted, suspended, or revoked by KDHE if a training provider, training manager, or other person with supervisory authority over the training provider performs at least one of the following:

(A) Provides, offers to provide, or claims to provide KDHE-accredited training courses without having this accreditation;

(B) presents inaccurate information in a training course;

(C) fails to submit required information or notifications to KDHE in a timely manner;

(D) falsifies accreditation records, instructor qualifications, or other accreditation-related information or documentation;

(E) fails to comply with the training standards and requirements in this regulation and K.A.R. 28-72-4a;

(F) three or more citations or violations within the past two years, by the training manager or principal instructor, of any existing local, state, or federal lead-based paint activity regulations or standards; or

(G) makes false or misleading statements to KDHE in its application for accreditation or reaccreditation that KDHE relied upon in approving the application.

(2) Training provider accreditation may be restricted, suspended, or revoked by KDHE if the training provider has incurred final disciplinary action by another state, territory, federal agency or country, whether or not voluntarily agreed to by the training provider, including the denial of accreditation, surrender of the accreditation, allowing the accreditation to expire or lapse, or discontinuing or restricting the accreditation while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(3) Before restricting, suspending, or revoking a training provider's accreditation, a training provider shall be given written notice of the reasons for the restriction, suspension, or revocation. The training provider may request a hearing by the department in accordance with the Kansas administrative procedure act.

(h) Renewal of accreditation.

(1) Unless sooner revoked, a training provider's ac-

creditation shall expire two years after the date of issuance. If a training provider meets the requirements of this regulation and K.A.R. 28-72-4a, the training provider shall be reaccredited.

(2) Each training provider seeking reaccreditation shall submit an application to KDHE at least 60 calendar days before its accreditation expires. If a training provider does not submit its application for reaccreditation by that date, the provider's reaccreditation before the end of the accreditation period shall not be guaranteed by KDHE.

(3) The training provider's application for reaccreditation shall contain the following:

(A) A completed training provider course accreditation application on a form provided by KDHE, which shall include the following:

- (i) The training provider's name, address, and telephone number;
 - (ii) the name and date of birth of the training manager;
 - (iii) the name and date of birth of the principal instructor for each course;
 - (iv) a list of locations at which training will take place;
 - (v) a list of courses for which the training provider is applying for reaccreditation; and
 - (vi) a statement signed by the training manager certifying that the information provided in the application for reaccreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4 and K.A.R. 28-72-4a, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;
- (B) a list of courses for which it is applying for reaccreditation;

(C) a description of any changes to the training facility, equipment, or course materials since its last application was approved that adversely affect the students' ability to learn; and

(D) a check or money order made payable to the Kansas department of health and environment for the non-refundable fees specified in K.A.R. 28-72-3, as applicable, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization and is therefore fee exempt from these fees.

(i) If the training provider has allowed its accreditation to expire and the provider desires to be accredited, it shall reapply in the same manner as that required for an application for an original accreditation in accordance with this regulation. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-4a. Curriculum requirements for training providers. (a)(1) Each training provider of a lead inspector training course shall ensure that the lead inspector training course curriculum includes, at a minimum, 16 training hours of classroom training and eight hours of hands-on training.

(2) Each lead inspector training course shall include, at a minimum, the following course topics:

(A) The role and responsibilities of an inspector;

(B) background information on lead, including the history of lead use and sources of environmental lead contamination;

(C) the health effects of lead, including the following:

(i) The ways that lead enters and affects the body;

(ii) the levels of concern; and

(iii) symptoms, diagnosis, and treatments;

(D) the regulatory background and an overview of lead in applicable state and federal guidance or regulations pertaining to lead-based paint, including the current version of each of the following:

(i) 40 CFR part 745;

(ii) U.S. HUD guidelines for the evaluation and control of lead-based paint hazards in housing;

(iii) 29 CFR 1910.1200;

(iv) 29 CFR 1926.62; and

(v) title X: the residential lead-based paint hazard reduction act of 1992;

(E) the rules and regulations in this article pertaining to lead licensure and to the Kansas work practice standards for lead-based paint activities specific to lead inspection activities;

(F) quality control and assurance procedures in testing analysis;

(G) legal liabilities and obligations; and

(H) recordkeeping.

(3) Each lead inspector training course shall also include, at a minimum, the following course topics, the presentation of which shall require hands-on training as an integral component of the course:

(A) Lead-based paint inspection methods, including the selection of rooms and components for sampling or testing;

(B) preinspection planning and review, including developing a schematic site plan and determining inspection criteria and locations to collect samples in single- and multi-family housing;

(C) paint, dust, and soil sampling methodologies, including the following:

(i) Lead-based paint testing or X-ray fluorescence paint analyzer (XRF) use, including the types of XRF units, their basic operation, and interpretation of XRF results, including substrate correction;

(ii) soil sample collection, including soil sampling techniques, number and location of soil samples, and interpretation of soil sampling results; and

(iii) dust sample collection techniques, including the number and location of wipe samples and the interpretation of test results;

(D) clearance standards and testing, including random sampling; and

(E) preparation of the final inspection report.

(b) Each training provider of a risk assessor training course shall ensure that the risk assessor training course curriculum includes, at a minimum, 12 training hours of classroom training and four hours of hands-on training.

(2) Each risk assessor training course shall include, at a minimum, the following course topics:

(A) The role and responsibilities of the risk assessor;

(B) the collection of background information to perform a risk assessment, including information on the age and history of the housing and occupancy by children under six years of age and women of childbearing age;

(C) sources of environmental lead contamination, including paint, surface dust and soil, water, air, packaging, and food;

(D) the rules and regulations in this article pertaining to lead certification and to Kansas work practice standards for lead-based paint specific to risk assessment activities;

(E) development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards; and

(F) legal liabilities and obligations specific to a risk assessor.

(3) Each risk assessor training course shall also include, at a minimum, the following course topics, the presentation of which shall require hands-on training as an integral component of the course:

(A) Visual inspection for the purposes of identifying potential sources of lead hazards;

(B) lead-hazard screen protocols;

(C) sampling for other sources of lead exposure, including drinking water;

(D) interpretation of lead-based paint and other lead sampling results related to the Kansas clearance standards; and

(E) preparation of a final risk assessment report.

(c) Each training provider of a lead abatement worker course shall ensure that the lead abatement worker training course curriculum includes, at a minimum, 16 training hours of classroom training and eight hours of hands-on training.

(1) Each lead abatement worker training course shall include, at a minimum, the following course topics:

(A) The role and responsibilities of a lead abatement worker;

(B) background information on lead, including the history of lead use and sources of environmental lead contamination;

(C) the health effects of lead, including the following:

(i) The ways that lead enters and affects the body;

(ii) the levels of concern; and

(iii) symptoms, diagnosis and treatments;

(D) the regulatory background and an overview of lead in applicable state and federal guidance or regulations pertaining to lead-based paint, including the current version of each of the following:

(i) 40 CFR part 745;

(ii) U.S. HUD guidelines for the evaluation and control of lead-based paint hazards in housing;

(iii) 29 CFR 1910.1200;

(iv) 29 CFR 1926.62; and

(v) title X: the residential lead-based paint hazard reduction act of 1992;

(E) the regulations in this article pertaining to lead certification and to the Kansas work practice standards for lead-based paint activities specific to lead abatement activities; and

(F) waste disposal techniques.

(2) Each lead abatement training course shall also include, at a minimum, the following course topics, the presentation of which shall require hands-on training as an integral component of the course:

(A) Personal protective equipment information, including respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, respiratory program, protective clothing and equipment, and hygienic practices;

(B) lead hazard recognition and control, including site characterization, exposure measurements, medical sur-

veillance, and engineering controls;

(C) preabatement set-up procedures, including containment for residential and commercial buildings and for superstructures;

(D) lead abatement and lead-hazard reduction methods for residential and commercial buildings and for superstructures, including prohibited practices;

(E) interior dust abatement methods and cleanup techniques; and

(F) soil and exterior dust abatement methods.

(d) Each training provider of a lead abatement supervisor training course shall ensure that the lead abatement supervisor training course curriculum includes, at a minimum, 28 training hours of classroom training and 12 hours of hands-on training.

(1) Each lead abatement supervisor training course shall include, at a minimum, the following course topics:

(A) The role and responsibilities of a supervisor;

(B) background information on lead, including the history of lead use and sources of environmental lead contamination;

(C) the health effects of lead, including the following:

(i) The ways that lead enters and affects the body;

(ii) the levels of concern; and

(iii) symptoms, diagnosis, and treatments;

(D) the regulatory background and an overview of lead in applicable state and federal guidance or regulations pertaining to lead-based paint, including the current version of each of the following:

(i) 40 CFR part 745;

(ii) U.S. HUD guidelines for the evaluation and control of lead-based paint hazards in housing;

(iii) 29 CFR 1910.1200;

(iv) 29 CFR 1926.62; and

(v) title X: the residential lead-based paint hazard reduction act of 1992;

(E) liability and insurance issues relating to lead abatement;

(F) the community relations process;

(G) hazard recognition and control techniques, including site characterization, exposure measurements, material identification, safety and health planning, medical surveillance, and engineering controls;

(H) the rules and regulations in this article pertaining to lead certification and to the Kansas work practice standards for lead-based paint activities specific to lead abatement activities;

(I) clearance standards and testing;

(J) cleanup and waste disposal; and

(K) recordkeeping.

(2) Each lead abatement supervisor training course shall also include, at a minimum, the following course topics, the presentation of which shall require hands-on training as an integral component of the course:

(A) Cost estimation;

(B) risk assessment and inspection report interpretation;

(C) the development and implementation of an occupant protection plan and pre-abatement work plan, in-

cluding containment for residential and commercial buildings and for superstructures;

(D) lead hazard recognition and control;

(E) personal protective equipment information, including respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, respiratory program, protective clothing and equipment, and hygienic practices;

(F) lead abatement and lead-hazard reduction methods, including prohibited practices, for residential and commercial buildings and superstructures;

(G) project management, including supervisory techniques, contractor specifications, emergency response planning, and blueprint reading;

(H) interior dust abatement and cleanup techniques;

(I) soil and exterior dust abatement methods; and

(J) the preparation of an abatement report.

(e) Each training provider of a project designer training course shall ensure that the project designer training course curriculum includes, at a minimum, eight hours of classroom training. A project designer training course shall include, at a minimum, the following course topics:

(1) The role and responsibilities of a project designer;

(2) the development and implementation of an occupant protection plan for large-scale abatement projects;

(3) lead abatement and lead-hazard reduction methods, including prohibited practices, for large-scale abatement projects;

(4) interior dust abatement or cleanup or lead-hazard control, and reduction methods for large-scale abatement projects;

(5) soil and exterior dust abatement methods for large-scale abatement projects;

(6) clearance standards and testing for large-scale abatement projects; and

(7) integration of lead abatement methods with modernization and rehabilitation projects for large-scale abatement projects. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13. 1999; effective Jan. 7, 2000.)

28-72-4b. Training provider accreditation; reciprocity. An accreditation certificate may be issued by KDHE to any person or entity that has made application, paid the necessary fees, and provided proof of accreditation from the EPA or from another state, if KDHE has entered into a reciprocity agreement with that state. (a) Application for accreditation of a training provider for a training course under reciprocity.

(1) Completed applications shall be mailed to the Kansas department of health and environment.

(2) The application shall include the following:

(A) A completed training provider course accreditation application on a form provided by KDHE, which shall include the following:

(i) The training provider's name, address, and telephone number;

(ii) the name and date of birth of the training manager;

(iii) the name and date of birth of the principal instructor for each course;

(iv) a list of locations at which training will take place;

(v) a list of courses for which the training provider is applying for accreditation; and

(vi) a statement signed by the training manager certi-

ifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4 and 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

(B) the course agenda;

(C) the course examination blueprint;

(D) a copy of the quality control plan as described in paragraph (d)(8) of K.A.R. 28-72-4;

(E) a copy of a sample course certificate as described in paragraph (d)(7) of K.A.R. 28-72-4;

(F) a description of the facilities and equipment to be used for lectures and hands-on training;

(G) a description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course;

(H) a check or money order for the applicable nonrefundable training provider accreditation and initial fees, as specified in K.A.R. 28-72-3, made payable to the Kansas department of health and environment, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization and is therefore exempt from payment of these fees;

(I) documentation supporting the training manager's and principal instructor's qualifications; and

(J) documentation of accreditation in the courses for which the training provider is applying for accreditation.

(b) Application for accreditation of a training provider for a refresher training course under reciprocity. To obtain KDHE accreditation by reciprocity to offer refresher training in any occupation, a training provider shall sub-

mit a completed application to KDHE. Completed applications shall be mailed to the Kansas department of health and environment.

The application shall include the following:

(1) A completed training course accreditation application on a form provided by KDHE, which shall include the following:

(A) The training provider's name, address, and telephone number;

(B) the name and date of birth of the training manager;

(C) the name and date of birth of the principal instructor for each course;

(D) a list of locations at which training will take place;

(E) a list of courses for which the training provider is applying for accreditation; and

(F) a statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4 through 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

(2) the course agenda;

(3) the course examination blueprint;

(4) a copy of the quality control plan as described in paragraph (d)(8) of K.A.R. 28-72-4;

(5) a copy of a sample course completion certificate as described in paragraph (d)(7) of K.A.R. 28-72-4;

(6) a description of the facilities and equipment to be

used for lectures and hands-on training;

(7) a check or money order for the applicable nonrefundable refresher fees specified in K.A.R. 28-72-3, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization, and is therefore exempt from payment of these fees;

(8) documentation supporting the training manager's and principal instructor's qualifications; and

(9) documentation of accreditation by one or more other states in the refresher course for which the training provider is applying for accreditation.

(c) The good standing requirements in K.A.R. 28-72-4(a), the procedures for issuance or denial of accreditation in K.A.R. 28-72-4(c), the requirements for accreditation of a training provider for a training course in K.A.R. 28-72-4(d), the training, education, and experience requirements for training managers and principal instructors in K.A.R. 28-72-4(e) and (f), and provisions relating to restriction, suspension, or revocation of accreditation in K.A.R. 28-72-4(g) shall apply to all training providers applying for accreditation of one or more training courses or refresher training courses by reciprocity, as applicable.

(d)(1) Unless sooner revoked, a training provider's reciprocal accreditation, including refresher training accreditation, shall expire two years after the date of issuance. If a training provider meets the requirements of this regulation and K.A.R. 28-72-4, 28-72-4a, and, if applicable, 28-72-4c, the training provider shall be reaccredited.

(2) Each training provider seeking reciprocal reaccreditation shall submit an application to KDHE at least 60 calendar days before its accreditation expires. If a training provider does not submit its application for reaccreditation by that date, the provider's reaccreditation before the end of the accreditation period shall not be guaranteed by KDHE.

(3) The training provider's application for reaccreditation shall contain the following:

(A) A completed training provider course accreditation application on a form provided by KDHE, which shall include the following:

(i) The training provider's name, address, and telephone number;

(ii) the name and date of birth of the training manager;

(iii) the name and date of birth of the principal instructor for each course;

(iv) a list of locations at which training will take place;

(v) a list of courses for which the training provider is applying for reaccreditation; and

(vi) a statement signed by the training manager certifying that the information provided in the application for reaccreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4 through 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

(B) a list of courses for which the training provider is applying for reaccreditation;

(C) a description of any changes to the training facility, equipment, or course materials since its last application was approved that adversely affects the students' ability to learn; and

(D) a check or money order made payable to the Kansas department of health and environment for the applicable nonrefundable reaccreditation fees specified in K.A.R. 28-72-3, unless the training provider is a state, federally recognized Indian tribe, local government, or non-profit organization and is therefore fee exempt from these fees.

(4) If the training provider has allowed its accreditation to expire and the training provider desires to be accredited, it shall reapply in the same manner as that required for an application for an original accreditation in accordance with this rule and regulation. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-4c. Training provider accreditation; refresher training course. (a) Application for accreditation of a training provider for a refresher training course. A training provider may seek accreditation to offer refresher training courses in any occupation. To obtain KDHE accreditation to offer refresher training, a training provider shall meet the following minimum requirements:

(1) Each refresher course shall review the curriculum topics of the full-length courses listed in K.A.R. 28-72-4a as appropriate. In addition, each training provider shall ensure that the refresher course of study includes, at a minimum, the following:

(A) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate occupation;

(B) current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate occupation; and

(C) current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate occupation.

(2) Each refresher course, except for the project designer course, shall last a minimum of eight training hours. The project designer refresher course shall last a minimum of four training hours.

(3) For each refresher training course offered, the training provider shall conduct a hands-on assessment, if applicable.

(4) For each refresher training course offered, the training provider shall conduct a course exam at the completion of the course.

(b) Any training provider may apply for accreditation of a refresher training course concurrently with its application for accreditation of the corresponding training course as described in K.A.R. 28-72-4. If so, the procedures and requirements specified in K.A.R. 28-72-4 shall be used by KDHE for accreditation of the refresher course and the corresponding training course.

(c) A training provider seeking accreditation to offer only refresher training courses shall submit a written application to KDHE.

(1) Completed applications shall be mailed to the Kansas department of health and environment.

(2) The application shall include the following:

(A) A completed training course accreditation application on a form provided by KDHE, which shall include the following:

(i) The training provider's name, address, and telephone number;

(ii) the name and date of birth of the training manager;

(iii) the name and date of birth of the principal instructor for each course;

(iv) a list of locations at which training will take place;

(v) a list of courses for which the training provider is applying for accreditation; and

(vi) a statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding,

that the training provider will comply with K.A.R. 28-72-4 through K.A.R. 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

(B) a copy of the student and instructor manuals;

(C) the course agenda;

(D) the course examination blueprint;

(E) a copy of the quality control plan as described in paragraph (d)(8) of K.A.R. 28-72-4;

(F) a copy of a sample course completion certificate as described in paragraph (d)(7) of K.A.R. 28-72-4;

(G) a description of the facilities and equipment to be used for lecture and hands-on training;

(H) a check or money order for either of the following nonrefundable fees, unless the training provider is exempt from these fees because the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization:

(i) The \$500 fee for the refresher course for risk assessor and lead inspector classes; or

(ii) the \$500 fee for the refresher course for lead abatement supervisor, project designer, and abatement worker.

(d) The good standing requirements in K.A.R. 28-72-4(a), procedures for training provider accreditation issuance or denial in K.A.R. 28-72-4(c), the requirements for accreditation of a training provider for a training course, the training, education, and experience requirements for training managers and principal instructors in K.A.R. 28-72-4(e) and (f), and provisions relating to restriction, suspension, or revocation of accreditation in K.A.R. 28-72-4(g) shall apply to all training providers applying for the accreditation of refresher training courses.

(e)(1) Unless sooner revoked, a training provider's accreditation, including refresher training courses, shall expire two years after the date of issuance. If a training provider meets the requirements of subsections (a), (c), and (d) of this regulation, the training provider shall be reaccredited.

(2) Each training provider seeking reaccreditation of one or more refresher training courses shall submit an application to KDHE at least 60 calendar days before its accreditation expires. If a training provider does not submit its application for reaccreditation by that date, the provider's reaccreditation before the end of the accreditation period shall not be guaranteed by KDHE.

(3) The training provider's application for reaccreditation shall contain the following:

(A) A completed training provider course accreditation application on a form provided by KDHE, which shall include the following:

(i) The training provider's name, address, and telephone number;

(ii) the name and date of birth of the training manager;

(iii) the name and date of birth of the principal instructor for each course;

(iv) a list of locations at which training will take place;

(v) a list of refresher training courses for which the training provider is applying for reaccreditation; and

(vi) a statement signed by the training manager certifying that the information provided in the application for reaccreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with K.A.R. 28-72-4, 28-72-4a, and 28-72-4c, and that the training provider will conduct lead training only in those occupations in which the training provider has received accreditation;

(B) a list of refresher training courses for which it is applying for reaccreditation;

(C) a description of any changes to the training facility, equipment, or course materials since its last application was approved that adversely affects the students' ability to learn; and

(D) a check or money order made payable to the Kansas department of health and environment for the non-refundable fees specified in K.A.R. 28-72-3, as applicable, unless the training provider is a state, federally recognized Indian tribe, local government, or nonprofit organization and is therefore exempt from these fees.

(4) If the training provider has allowed its accreditation to expire and the provider desires to be accredited, it shall reapply in the same manner as that required for an application for an original accreditation in accordance with this rule and regulation. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-5. Application process and requirements for the certification of lead inspectors. (a) Application for a lead inspector certificate.

(1) Each applicant for a lead inspector certificate shall submit a completed application to KDHE before consideration for certification issuance. All applications for certification shall be received by KDHE at least 30 days before the date of the national third-party examination, but the deadline for filing applications may be waived by KDHE as particular circumstances justify. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

- (i) The applicant's full legal name, home address, and telephone number;
 - (ii) the name, address, and telephone number of the applicant's current employer;
 - (iii) the applicant's social security number;
 - (iv) the county or counties in which the applicant is employed;
 - (v) the location where the applicant would like to receive correspondence regarding the application or certification;
 - (vi) the occupation for which the applicant wishes to be certified;
 - (vii) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;
 - (viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;
 - (ix) the type of training completed, including the name of the training provider, certificate identification number, and dates of course completion;
 - (x) any employment history or education that meets the experience requirements in subsection (c) of this regulation; and
 - (xi) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;
- (B) a copy of the KDHE- or EPA-accredited lead in-

spector training program completion certificate, and any required refresher completion certificates;

(C) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable;

(D) documentation pursuant to subsection (c) of this regulation as evidence of meeting the education or experience requirements for lead inspectors; and

(E) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(3) Each applicant for a lead inspector certificate shall apply to KDHE within one year of the applicant's successful completion of the KDHE- or EPA-accredited lead inspector training course, as indicated on the certificate of completion. Applicants failing to apply within one year from the date on the training course completion certificate shall, before making application for certification, successfully complete the eight-hour lead inspector refresher training course accredited by the KDHE or EPA.

(4) An applicant who fails to apply within two years of the lead inspector training and who has not successfully completed refresher training shall successfully complete the KDHE- or EPA-accredited lead inspector training course before submitting an application for a lead inspector certificate.

(b) Application for a lead inspector certificate under reciprocity.

(1) An applicant for a lead inspector certificate by reciprocity shall submit a completed application to KDHE before consideration for certification issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application form provided by KDHE, which shall include the

following:

- (i) The applicant's full legal name, home address, and telephone number;
- (ii) the name, address, and telephone number of the applicant's current employer;
- (iii) the applicant's social security number;
- (iv) the county or counties in which the applicant is employed;
- (v) the location where the applicant would like to receive correspondence regarding the application or certification;
- (vi) the occupation for which the applicant wishes to be certified;
- (vii) any certification for lead occupations in other states, including the name of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;
- (viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;
- (ix) the type of training completed, including the name of the training provider, certificate identification number, and date of course completion;
- (x) any employment history or education that meets the experience requirements in subsection (c) of this regulation; and
- (xi) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(C) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(c) Training, education, and experience requirements for a lead inspector certificate.

(1) Each applicant for certification as a lead inspector shall complete a KDHE- or EPA-accredited lead inspector training program and pass the course examination and the national third-party examination, each with a score of 70% or more.

(2) Each applicant for certification as a lead inspector shall meet the minimum education or experience requirements for a certified lead inspector.

(A) The minimum education or experience requirements for a certified lead inspector shall include at least one of the following:

(i) A bachelor's degree;

(ii) an associate's degree and one year of experience in a related field, including housing repair and inspection, and lead, asbestos, and environmental remediation work; or

(iii) a high school diploma or certificate of high school equivalency (GED) and two years of experience in a related field, including housing repair and inspection, and lead, asbestos, and environmental remediation work.

(B) The following documents shall be recognized by KDHE as evidence of meeting the requirements listed in paragraph (c)(2)(A) of this regulation:

(i) Official academic transcripts of diplomas as evidence of meeting the education requirements;

(ii) resumes, letters of reference, or documentation of work experience, which at a minimum shall include specific dates of employment, each employer's name, address, and telephone number, and specific job duties, as evidence of meeting the work experience requirements; and

(iii) course completion certificates issued by the KDHE- or EPA-accredited training provider as evidence of meeting the training requirements.

(d) Procedure for issuance or denial of a lead inspector certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for certification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for certification is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

- (ii) the type and amount of training;
- (iii) false or misleading statements in the application;
- (iv) failure to achieve a passing score on the national third-party exam after three attempts;
- (v) failure to submit a complete application;
- (vi) three or more citations or violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;
- (vii) three or more violations within the past two years of 29 CFR 1926.62 or 29 CFR 1910.1200, both revised as of July 1, 1998 and both of which are adopted by reference;
- (viii) fraud or failure to disclose facts relevant to the application;
- (ix) permitting the duplication or use by another of the individual's certificate;
- (x) any other information that may affect the applicant's ability to appropriately perform lead inspections;
or
- (xi) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a lead inspector certificate by submitting a complete lead occupation application form with another nonrefundable certification fee, as specified in K.A.R. 28-72-3.

(D) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the administrative hearing commission as provided by the Kansas administrative procedure act.

(2) Within 180 calendar days of application approval, the applicant shall attain a passing score on the national third-party examination for lead inspectors.

(A) An applicant shall not sit for the national third-party examination for lead inspectors more than three times within 180 calendar days after the issuance date of the notice of an approved application.

(B) The applicant's failure to obtain a passing score on the national third-party examination for lead inspectors within the 180-day period following the notice of an approved application for a certificate shall result in KDHE's denial of the individual's application for a certificate. The individual may reapply to KDHE pursuant to this regulation but only after retaking the KDHE- or EPA-accredited lead inspector training course.

(3) After the applicant passes the national third-party examination, a two-year lead inspector certificate and a photo identification badge shall be issued by KDHE.

(4) A certificate may be issued with specific restrictions pursuant to an agreement between the applicant or certified individual and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-6. Application process and requirements for the certification of risk assessors. (a) Application for a risk assessor certificate.

(1) Each applicant for a risk assessor certificate shall submit a completed application to KDHE before consideration for certification issuance. All applications for certification shall be received by KDHE at least 30 days before the date of the national third-party examination, but

the deadline for filing applications may be waived by KDHE as particular circumstances justify. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(ix) the type of training completed, including the name of the training provider, certificate identification number, and dates of course completion;

(x) any employment history or education that meets

the experience requirements in subsection (c) of this regulation; and

(xi) the signature of applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited risk assessor and lead inspector training program completion certificates, and any required refresher completion certificates;

(C) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable;

(D) documentation pursuant to subsection (c) of this regulation as evidence of meeting the education or experience requirements for risk assessors; and

(E) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(3) Each applicant for a risk assessor certificate shall apply to KDHE within one year of the applicant's successful completion of the KDHE- or EPA-accredited risk assessor training course, as indicated on the certificate of completion. Applicants failing to apply within one year from the date on the training course completion certificate shall, before making application for certification, successfully complete the eight-hour risk assessor refresher training course accredited by the KDHE or EPA.

(4) An applicant who fails to apply within two years of the risk assessor training and who has not successfully completed refresher training shall successfully complete the KDHE- or EPA-accredited risk assessor training course before submitting an application for a risk assessor certificate.

(b) Application for risk assessor certificate under reci-

procity.

(1) Each applicant for risk assessor certificate by reciprocity shall submit a completed application to KDHE before consideration for certification issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the name of other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(ix) any employment history or education that meets the experience requirements in subsection (c) of this reg-

ulation; and

(x) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) two recent passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(C) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(c) Training, education, and experience requirements for a risk assessor certificate.

(1) Each applicant for a certificate as a risk assessor shall complete a KDHE- or EPA-accredited risk assessor training program, lead inspector training program, pass both the course examinations and the national third-party risk assessor examination, each with a score of 70% or more.

(2) Each applicant for a certificate as a risk assessor shall meet the minimum education and experience requirements for a certified risk assessor.

(A) The minimum education and experience requirements for a certified risk assessor shall include at least one of the following:

(i) A bachelor's degree and at least one year of experience in a related field, including housing repair and inspection, and lead, asbestos, and environmental remediation work;

(ii) an associate's degree and two years of experience in a related field, including housing repair and inspection, and lead, asbestos, and environmental remediation work;

(iii) certification as an industrial hygienist, professional engineer, or registered architect, or certification in a related engineering, health, or environmental field, including a safety professional and environmental scientist; or

(iv) a high school diploma or certificate of high school equivalency (GED) and three years of experience in a field, including housing repair and inspection, and lead, asbestos, and environmental remediation work.

(B) The following documents shall be recognized by KDHE as evidence of meeting the requirements listed in paragraph (c)(2)(A) of this regulation:

(i) Official academic transcripts or diplomas as evidence of meeting the education requirements;

(ii) resumes, letters of reference, or documentation of work experience, which at a minimum shall include specific dates of employment, each employer's name, address, and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

(iii) course completion certificates issued by the KDHE- or EPA-accredited training provider as evidence of meeting the training requirements; and

(iv) appropriate documentation of certifications or registrations.

(d) Procedure for issuance or denial of a risk assessor certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing,

the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for certification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for certification is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

(ii) the type and amount of training;

(iii) false or misleading statements in the application;

(iv) failure to achieve a passing score on the national third-party exam after three attempts;

(v) failure to submit a complete application;

(vi) three or more citations or violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;

(vii) three or more violations within the past two years of 29 CFR 1926.62 or 29 CFR 1910.1200;

(viii) fraud or failure to disclose facts relevant to the application;

(ix) permitting the duplication or use by another of the individual's certificate;

(x) any other information that may affect the applicant's ability to appropriately perform risk assessments;

or

(xi) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a risk assessor certificate by submitting a complete lead occupation application form with another non-refundable certification fee, as specified in K.A.R. 28-72-3.

(D) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(2) Within 180 calendar days of application approval, the applicant shall attain a passing score on the national third-party examination for risk assessors.

(A) An applicant shall not sit for the national third-party examination for risk assessors more than three times within 180 calendar days after the issuance date of the notice of an approved application.

(B) The applicant's failure to obtain a passing score on the national third-party examination for risk assessors within the 180-day period following the notice of an approved application for a certificate shall result in KDHE's denial of the individual's application for a certificate. The individual may reapply to KDHE pursuant to this regulation but only after retaking the KDHE- or EPA-accredited risk assessor training course.

(3) After the applicant passes the national third-party examination, a two-year risk assessor certificate and a photo identification badge shall be issued by KDHE.

(4) A certificate may be issued with specific restrictions pursuant to an agreement between the applicant and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-7. Application process and requirements for the certification of lead abatement workers. (a) Application for a lead abatement worker certificate.

(1) Each applicant for a lead abatement worker certificate shall submit a completed application to KDHE before consideration for certification issuance. Each application for certification shall be received by KDHE within one year of successful completion of the lead abatement worker training course. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(ix) the type of training completed, including the name of the training provider, certificate identification number, and dates of course completion; and

(x) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited lead abatement worker training program completion certificate, and any required refresher completion certificates;

(C) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(D) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(3) Each applicant for a lead abatement worker certificate shall apply to KDHE within one year of the applicant's successful completion of the KDHE- or EPA-accredited lead abatement worker training course, as indicated on the certificate of completion. Applicants failing to apply within one year from the date on the training course completion certificate shall, before making application for certification, successfully complete the eight-hour lead abatement worker refresher training course accredited by the KDHE or EPA.

(4) An applicant who fails to apply within two years of the lead abatement worker training and who has not successfully completed refresher training shall successfully complete the KDHE- or EPA-accredited lead abatement worker training course before submitting an application for a lead abatement worker certificate.

(b) Application for a lead abatement worker certificate under reciprocity.

(1) Each applicant for a lead abatement worker certificate by reciprocity shall submit a completed application to KDHE before consideration for certification issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the name of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate; and

(ix) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(C) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(c) Training requirements for a lead abatement worker's certificate. Each applicant for a certificate as a lead abatement worker shall complete a KDHE- or EPA-accredited lead abatement worker training program and pass the course examination with a score of 70% or more. The applicant shall submit a course completion issued by the KDHE- or EPA-accredited training provider as evidence of meeting this requirement.

(d) Procedure for issuance or denial of a lead abatement worker certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for certification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for certification is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

(ii) the type and amount of training;

(iii) false or misleading statements in the application;

(iv) failure to submit a complete application;

(v) three or more citations or violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;

(vi) three or more violations within the past two years of 29 CFR 1926.62 or 29 CFR 1910.1200;

(vii) fraud or failure to disclose facts relevant to the application;

(viii) permitting the duplication or use by another of the individual's certificate;

(ix) any other information that may affect the applicant's ability to appropriately perform lead abatement worker activities; or

(x) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or coun-

try, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a lead abatement worker certificate by submitting a complete lead occupation application form with another nonrefundable certification fee, as specified in K.A.R. 28-72-3.

(D) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(2) If the application is approved, a two-year lead abatement worker certificate and a photo identification badge shall be issued by KDHE.

(3) A certificate may be issued with specific restrictions pursuant to an agreement between the applicant and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-8. Application process and requirements for the certification of lead abatement supervisors. (a) Application for a lead abatement supervisor certificate.

(1) Each applicant for a lead abatement supervisor certificate shall submit a completed application to KDHE before consideration for certification issuance. All applications for certification shall be received by KDHE at least 30 days before the date of the national third-party examination, but the deadline for filing applications may be waived by KDHE as particular circumstances justify. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include

the following:

- (i) The applicant's full legal name, home address, and telephone number;
- (ii) the name, address, and telephone number of the applicant's current employer;
- (iii) the applicant's social security number;
- (iv) the county or counties in which the applicant is employed;
- (v) the location where the applicant would like to receive correspondence regarding the application or certification;
- (vi) the occupation for which the applicant wishes to be certified;
- (vii) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;
- (viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;
- (ix) the type of training completed, including the name of the training provider, certificate identification number, and dates of course completion;
- (x) any employment history or education that meets the experience requirements specified in subsection (c) of this regulation; and
- (xi) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited lead abatement supervisor training program completion certificate, and any required refresher completion certificates;

(C) two recent passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable;

(D) documentation pursuant to subsection (c) of this regulation as evidence of meeting the education or experience requirements for lead abatement supervisors; and

(E) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(3) Each applicant for a lead abatement supervisor certificate shall apply to KDHE within one year of the applicant's successful completion of the KDHE- or EPA-accredited lead abatement supervisor training course, as indicated on the certificate of completion. Applicants failing to apply within one year from the date on the training course completion certificate shall, before making application for certification, successfully complete the eight-hour lead abatement supervisor refresher training course accredited by the KDHE or EPA.

(4) An applicant who fails to apply within two years of the lead abatement supervisor training and who has not successfully completed refresher training shall successfully complete the KDHE- or EPA-accredited lead abatement supervisor training course before submitting an application for a lead abatement supervisor certificate.

(b) Application for a lead abatement supervisor certificate under reciprocity.

(1) Each applicant for a lead abatement supervisor certificate by reciprocity shall submit a completed application to KDHE before consideration for certification issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the name of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(ix) any employment history or education that meets the experience requirements in subsection (c) of this regulation; and

(x) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(C) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(c) Training and experience requirements for a lead abatement supervisor certificate.

(1) Each applicant for a certificate as a lead abatement supervisor shall complete a KDHE- or EPA-accredited lead abatement supervisor training program and pass the course examination and the national third-party examination, each with a score of 70% or more.

(2) Each applicant for a certificate as a lead abatement supervisor shall meet the minimum experience requirements for a certified lead abatement supervisor.

(A) The minimum experience requirements for a lead abatement supervisor certificate shall include at least one of the following:

(i) At least one year of experience as a certified lead abatement worker certified by Kansas, EPA, or an EPA-approved state;

(ii) at least two years of experience in asbestos abatement work as a construction manager or superintendent;
or

(iii) at least two years of experience as a manager for environmental hazard remediation projects.

(B) The following documents shall be recognized by KDHE as evidence of meeting the requirements listed in paragraph (c)(2)(A) of this regulation:

(i) Resumes, letters of reference, or documentation of work experience, which shall include specific dates of employment, each employer's name, address, and telephone

number, and specific job duties, as evidence of meeting the work experience requirements;

(ii) course completion certificates issued by the KDHE- or EPA-accredited training provider as evidence of meeting the training requirements; and

(iii) a copy of the lead abatement supervisor certificate or identification badge as evidence of having been a certified lead abatement supervisor.

(d) Procedure for issuance or denial of a lead abatement supervisor certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for certification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for certification is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

- (ii) the type and amount of training;
- (iii) false or misleading statements in the application;
- (iv) failure to achieve a passing score on the national third-party exam after three attempts;
- (v) failure to submit a complete application;
- (vi) three or more citations or violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;
- (vii) three or more violations within the past two years of 29 CFR 1926-62 or 29 CFR 1910.1200;
- (viii) fraud or failure to disclose facts relevant to the application;
- (ix) permitting the duplication or use by another of the individual's certificate;
- (x) any other information that may affect the applicant's ability to appropriately perform abatement supervisor activities; or
- (xi) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a lead abatement supervisor certificate by submitting a complete lead occupation application form with another nonrefundable certification fee, as specified in K.A.R. 28-72-3.

(D) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's de-

nial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(2) Within 180 calendar days of application approval, the applicant shall attain a passing score on the national third-party examination for lead abatement supervisors.

(A) An applicant shall not sit for the national third-party examination for lead abatement supervisors more than three times within 180 calendar days after the issuance date of the notice of an approved application.

(B) The applicant's failure to obtain a passing score on the national third-party examination for lead abatement supervisors within the 180-day period following the notice of an approved application for a certificate shall result in KDHE's denial of the individual's application for a certificate. The individual may reapply to KDHE pursuant to this regulation but only after retaking the KDHE- or EPA-accredited lead abatement supervisor training course.

(3) After the applicant passes the national third-party examination, a two-year lead abatement supervisor certificate and a photo identification badge shall be issued by KDHE.

(4) A certificate may be issued with specific restrictions pursuant to an agreement between the applicant and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-9. Application for the certification of project designers. (a) Application for a project designer certificate.

(1) Each applicant for a project designer certificate shall submit a completed application to KDHE before consideration for certification issuance. Each application for certification shall be received by KDHE within one year of successful completion of the project designer training course. Completed applications shall be mailed

to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the county or counties in which the applicant is employed;

(v) the location where the applicant would like to receive correspondence regarding the application or certification;

(vi) the occupation for which the applicant wishes to be certified;

(vii) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(viii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

(ix) the type of training completed, including the name of the training provider, certificate identification number, and dates of course completion;

(x) any employment history or education that meets the experience requirements in subsection (c) of this regulation; and

(xi) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited project designer training program completion certificate, and any required refresher completion certificates;

(C) two recent passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable;

(D) documentation pursuant to subsection (c) of this regulation as evidence of meeting the education or experience requirements for project designers; and

(E) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(3) Each applicant for a project designer certificate shall apply to KDHE within one year of the applicant's successful completion of the KDHE- or EPA-accredited project designer training course, as indicated on the certificate of completion. Applicants failing to apply within one year from the date on the training course completion certificate shall, before making application for certification, successfully complete the four-hour project designer refresher training course accredited by the KDHE or EPA.

(4) An applicant who fails to apply within two years of the project designer training and who has not successfully completed refresher training shall successfully complete the KDHE- or EPA-accredited project designer training course before submitting an application for a project designer certificate.

(b) Application for project designer certificate under reciprocity.

(1) Each applicant for a project designer certificate by

reciprocity shall submit a completed application to KDHE before consideration for certification issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead occupation certificate application form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the applicant's social security number;

(iv) the location where the applicant would like to receive correspondence regarding the application or certification;

(v) the occupation for which the applicant wishes to be certified;

(vi) any certification for lead occupations in other states, including the name of the other states, type of certification, certification expiration date, and certification number, and copies of the other states' certification or license certificate;

(vii) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate; and

(viii) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-

generated or photocopied photographs shall not be acceptable; and

(C) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3.

(c) Training, education, and experience requirements for a project designer certificate.

(1) Each applicant for a certificate as a project designer shall complete a KDHE- or EPA-accredited lead abatement supervisor training program and a KDHE- or EPA-accredited project designer course and pass both course examinations, each with a score of at least 70%.

(2) Each applicant for a certificate as a project designer shall meet the minimum education and experience requirements for a certified project designer.

(A) The minimum education and experience requirements for a certified project designer shall include at least one of the following:

(i) A bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design;

(ii) at least one year of experience as a certified project designer, certified by Kansas, EPA, or an EPA-approved state, and at least two years of experience in building construction and design; or

(iii) at least four years of experience in building construction and design.

(B) The following documents shall be recognized by KDHE as evidence of meeting the requirements listed in paragraph (c)(2)(A) of this regulation:

(i) Official academic transcripts or diplomas, as evidence of meeting the education requirements;

(ii) resumes, letters of reference, or documentation of work experience, which shall include specific dates of em-

ployment, each employer's name, address, and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

(iii) course completion certificates issued by the KDHE- or EPA-accredited training provider as evidence of meeting the training requirements; and

(iv) a copy of the project designer certificate or identification badge as evidence of having been a certified project designer.

(d) Procedure for issuance or denial of a project designer certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the individual's application for certification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When an application for certification is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

- (ii) the type and amount of training;
- (iii) false or misleading statements in the application;
- (iv) failure to submit a complete application;
- (v) three or more citations for violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;
- (vi) three or more violations within the past two years of 29 CFR 1926.62 or 29 CFR 1910.1200;
- (vii) fraud or failure to disclose facts relevant to the application;
- (viii) permitting the duplication or use by another of the individual's certificate;
- (ix) any other information that may affect the applicant's ability to appropriately perform project designer activities; or
- (x) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a project designer certificate by submitting a complete lead occupation application form with another nonrefundable certification fee, as specified in K.A.R. 28-72-3.

(D) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(2) If the application is approved, a two-year project designer certificate and a photo identification badge shall be issued by KDHE.

(3) A certificate may be issued with specific restrictions pursuant to an agreement between the applicant and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-10. Application process and licensure renewal requirements for lead activity firms. (a) Application for a lead activity firm license.

(1) Each applicant for a lead activity firm license shall submit a completed application to KDHE before consideration for license issuance. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead activity firm application on a form provided by KDHE, which shall include the following:

(i) The applicant's name, address, and telephone number;

(ii) if the applicant is a sole proprietorship, the applicant's social security number or, if the applicant is a corporation, the applicant's federal employee identification number;

(iii) the county or counties in which the applicant is located;

(iv) a description of any lead-based paint activities that the applicant will be conducting, including lead inspection, risk assessments, lead abatement projects, and project design;

(v) a certification that the lead activity firm will employ only appropriately Kansas certified individuals to conduct lead-based paint activities; and

(vi) a certification that the lead activity firm and its employees will follow the Kansas work practice standards for lead-based paint activities specified in K.A.R. 28-72-13 through K.A.R. 28-72-21;

(B) if the applicant is a corporation, a copy of its registration with the Kansas secretary of state's office. Every corporation desiring a license as a lead activity firm under the act shall be registered and in good standing with the Kansas secretary of state's office;

(C) if the applicant conducts business under a fictitious name, a copy of its fictitious name registration, which shall be registered with the Kansas secretary of state's office; and

(D) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3, unless the lead activity firm is exempt from this fee because the firm is a state, federally recognized Indian tribe, local government, or nonprofit organization.

(b) Application for a lead activity firm under reciprocity.

(1) Each applicant for a lead activity firm license by reciprocity shall submit an application to KDHE. Completed applications shall be mailed to KDHE.

(2) The application shall include the following:

(A) A completed lead activity firm application on a form provided by KDHE, which shall include the following:

(i) The applicant's name, address, and telephone number;

(ii) if the applicant is a sole proprietorship, the applicant's social security number;

(iii) the county or counties in which the applicant is located;

(iv) any lead-based paint activities that the applicant will be conducting, including lead inspection, risk assessments, lead abatement projects, and project design;

(v) a certification that the lead activity firm will employ only appropriately Kansas-certified individuals to conduct lead-based paint activities; and

(vi) a certification that the lead activity firm and its employees will follow the Kansas work practice standards for lead-based paint activities specified in this article;

(B) a check or money order made payable to KDHE for the nonrefundable fee specified in K.A.R. 28-72-3, unless the lead activity firm is exempt from this fee because the firm is a state, federally recognized Indian tribe, local government, or nonprofit organization.

(c) Procedure for issuance or denial of a lead activity firm license.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the written notice within 30 calendar days shall result in KDHE's denial of the firm's application for licensure.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE

in writing that the application is either approved or denied.

(B) When an application for licensure is denied, the written notice of denial to the applicant shall specify the reasons for the denial. Licensure may be denied by KDHE for any of the following reasons:

- (i) False or misleading statements in the application;
- (ii) failure to submit a complete application;
- (iii) three or more citations or violations within the past two years, by the firm's president, officers, or employees, of any existing local, state, or federal lead-based paint activity regulations or standards;
- (iv) three or more violations within the past two years by the firm's president, officers, or employees of 29 CFR 1926.62 or 29 CFR 1910.1200;
- (v) fraud or failure to disclose facts relevant to the application;
- (vi) permitting the duplication or use by another of the firm's license;
- (vii) any other information that may affect the applicant's ability to appropriately perform lead abatement activities; or
- (viii) final disciplinary action, or any violation of lead-based paint activity standards, against the firm by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the firm, including the denial of licensure, surrender of the license, allowing the license to expire, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If an application is denied, the applicant may reapply to KDHE for a lead activity firm license by submitting a complete lead activity firm application form with an-

other nonrefundable license fee, as specified in K.A.R. 28-72-3.

(D) After notice of a complete application, a two-year lead activity firm license shall be issued by KDHE.

(E) If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(F) A license may be issued with specified restrictions pursuant to an agreement between the applicant or licensed firm and KDHE.

(2) Change of ownership. If a licensed lead activity firm changes ownership, the new owner shall notify KDHE in writing no later than 30 calendar days before the change of ownership becomes effective. The notification shall include a new lead activity firm license application, the appropriate fee, and the date that the change of ownership will become effective. The new lead activity firm application shall be processed in the same manner as that required for an initial license, in accordance with this regulation. The current lead activity firm's license shall expire on the effective date set forth in the notification of the change of ownership.

(3) Renewal application for a lead activity firm license. A completed application for a lead activity firm license renewal shall be mailed to KDHE at least 60 days before the expiration date on the license, accompanied by the nonrefundable renewal fee specified in K.A.R. 28-72-3. However, any lead activity firm that is a state, federally recognized Indian tribe, local government, or nonprofit organization shall be exempt from payment of this fee. If the licensee fails to apply 60 days before the license expiration date, renewal of the license before the end of the licensing period shall not be guaranteed by KDHE.

(4) Expiration of license. If a licensed lead activity firm allows its license to expire, the firm shall be required to submit an application in the same manner as that required for an application for an initial license, in accord-

ance with this regulation. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, 6, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-11. Renewal of lead occupation certificates.

(a) Renewal application for lead inspector, risk assessor, lead abatement supervisor, lead abatement worker, and project designer.

(1) An individual shall submit a completed application for renewal of certificate, including the required supporting documentation, to KDHE at least 60 days before the certificate's expiration date as indicated on the certificate. Failure of the certified individual to submit an application at least 60 days before the certificate's expiration date may result in certificate not being renewed before the current license expires.

(2) The certified individual applying for renewal shall complete the eight-hour KDHE- or EPA-accredited training course for the appropriate occupation.

(3) The renewal application shall include the following:

(A) A completed lead occupation certificate application on a form provided by KDHE, which shall include the following:

(i) The applicant's full legal name, home address, and telephone number;

(ii) the name, address, and telephone number of the applicant's current employer;

(iii) the certified individual's social security number;

(iv) the county or counties in which the certified individual is employed;

(v) the location where the certified individual would like to receive correspondence regarding the certification;

(vi) the lead occupation certificate that the applicant wishes to have renewed;

(vii) the type of refresher training course completed, including the name of the training provider, certificate identification number, and date of course completion; and

(viii) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) a copy of the KDHE- or EPA-accredited refresher training program completion certificate for the appropriate occupation;

(C) two recent, passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(D) a check or money order made payable to KDHE for the appropriate nonrefundable recertification fee, as specified in K.A.R. 28-72-3.

(b) Procedure for issuance or denial of a renewal lead occupation certificate.

(1) The applicant shall be informed by KDHE in writing that the application is approved, incomplete, or denied.

(A) If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the renewal application.

(i) Within 30 calendar days after the issuance date of the notice, the applicant shall submit to KDHE, in writing, the information requested in the written notice.

(ii) Failure to submit the information requested in the

written notice within 30 calendar days shall result in KDHE's denial of the individual's application for recertification.

(iii) After receipt of the information requested in the written notice, the applicant shall be informed by KDHE in writing that the application is either approved or denied.

(B) When a renewal application for certification is denied, the written notice of denial to the applicant shall specify the reasons for denial. Certification may be denied by KDHE for any of the following reasons:

(i) Failure to satisfy education or experience requirements;

(ii) the type and amount of training;

(iii) false or misleading statements in the application;

(iv) failure to submit a complete application;

(v) three or more citations or violations within the past two years of any existing local, state, or federal lead-based paint activity regulations or standards;

(vi) three or more violations within the past two years of 29 CFR 1926.62 or 29 CFR 1910.1200;

(vii) fraud or failure to disclose facts relevant to the application;

(viii) permitting the duplication or use by another of the individual's training certificate;

(ix) any other information that may affect the applicant's ability to appropriately perform lead abatement activities; or

(x) final disciplinary action, for any violation of lead-based paint activity standards, against the certified individual by another state, territory, federal agency, or country, whether or not voluntarily agreed to by the certified

individual, including the denial of certification, surrender of the certificate, allowing the certificate to expire, or discontinuing or restricting the certificate while subject to investigation or while actually under investigation by another state, territory, federal agency, or country.

(C) If a renewal application is denied, the applicant may reapply to KDHE for a lead occupation certificate by submitting a complete lead occupation application form with the appropriate nonrefundable recertification fee, as specified in K.A.R. 28-72-3.

(2) If an applicant is aggrieved by a determination to deny certification, the applicant may appeal KDHE's denial to the KDHE hearing section, in accordance with the Kansas administrative procedure act.

(3) After notice of a complete renewal application, a two-year certificate and a photo identification badge shall be issued by KDHE.

(4) A certificate may be issued with specific restrictions pursuant to an agreement between the certified individual and KDHE. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 5, and 9; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-12. Application process and requirements for reapplication after certificate expiration. (a) Unless sooner renewed or revoked, a certificate shall expire within two years from its effective date indicated on the current certificate. If a certified individual allows the certificate to expire before renewal, the certified individual shall reapply to KDHE. Completed applications shall be mailed to KDHE.

(b) The application shall include the following:

(1) A completed lead occupation certificate form provided by KDHE, which shall include the following:

(A) The applicant's full legal name, home address, and telephone number;

(B) the name, address, and telephone number of the applicant's current employer;

(C) the applicant's social security number;

(D) the county or counties in which the applicant is employed;

(E) the location where the applicant would like to receive correspondence regarding the application or certification;

(F) the occupation for which the applicant wishes to be certified;

(G) any certification for lead occupations in other states, including the names of the other states, type of certification, certification expiration date, and certification number, and copies of other states' certification or license certificate;

(H) any certification by the EPA, including the EPA region number, type of certification, certification expiration date, certification number, and copy of the EPA certificate;

(I) the type of training completed, including the name of the training provider, certificate identification number, and date of course completion;

(J) any employment history or education that meets the experience requirements in K.A.R. 28-72-5 through 28-72-9, as applicable; and

(K) the signature of the applicant, which shall certify that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(2) a copy of the KDHE- or EPA-accredited lead occupation training program completion certificate for the appropriate occupation;

(3) two recent passport-size color photographs of the applicant's face without a hat or sunglasses. Computer-generated or photocopied photographs shall not be acceptable; and

(4) a check or money order made payable to KDHE for the nonrefundable certification fee appropriate to the lead occupation, as specified in K.A.R. 28-72-3.

(c)(1) Any applicant who fails to reapply before the license expiration date and who has not successfully completed refresher training shall successfully complete the appropriate KDHE- or EPA-accredited initial training course again.

(2) Any certified lead inspector, risk assessor, or lead abatement supervisor who allows the certification to expire before renewal shall retake the national third-party examination for the appropriate occupation.

(d) The procedure for issuance or denial of a certificate after its expiration shall be that specified in K.A.R. 28-72-11(b). (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-13. Work practice standards; general standards. (a) Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, all lead-based paint activities, as defined in the act, shall be performed pursuant to the work practice standards contained in this article.

(b) Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, when performing any lead-based paint activity that involves an inspection, lead-hazard screen, risk assessment, or abatement, a certified individual shall perform that activity in compliance with the appropriate requirements below.

(c) Conflict of interest. Certified lead inspectors and risk assessors conducting lead inspection activities shall avoid potential conflicts of interest by not being con-

tracted, subcontracted, or employed by a lead activity firm performing lead abatement activities on the same lead abatement project.

(d)(1) Each certified individual shall comply with the following documented methodologies, which are adopted by reference, when performing any lead-based paint activity:

(A) The U.S. department of housing and urban development (HUD) ``guidelines for the evaluation and control of lead-based paint hazards in housing," dated June 1995;

(B) the EPA ``guidance on identification of lead-based paint hazards," published September 11, 1995; and

(C) the EPA ``residential sampling for lead: protocols for dust and soil sampling" (EPA report number 747-R-95-001), published March 1995.

(2) If a conflict exists between any of the aforementioned methodologies and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by the certified lead inspector or risk assessor. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-14. Work practice standards; inspection. (a)

Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, an inspection shall be conducted only by a person certified by KDHE as a lead inspector or risk assessor, and all inspections shall be conducted according to the procedures in this regulation.

(b) When conducting an inspection, the lead inspector or risk assessor shall select the following locations according to the documented methodologies in K.A.R. 28-72-13 (d)(1) and shall test for the presence of lead-based paint:

(1) In a residential dwelling and child-occupied facility, each interior component with a distinct painting his-

tory and each exterior component with a distinct painting history shall be tested for lead-based paint, except those components that the lead inspector or risk assessor determines to have been replaced after 1978, or not to contain lead-based paint; and

(2) in a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the lead inspector or risk assessor determines to have been replaced after 1978, or not to contain lead-based paint.

(c)(1) Paint shall be sampled according to both of the following requirements:

(A) The analysis of paint to determine the presence of lead shall be conducted using the documented methodologies in K.A.R. 28-72-13 (d)(1).

(B) All collected paint chip samples shall be analyzed according to K.A.R. 28-72-19 of this section to determine if they contain detectable levels of lead that can be quantified numerically.

(2) The certified inspector or risk assessor shall prepare an inspection report, which shall include the following information:

(A) The date of each inspection;

(B) the address of the building;

(C) the date of the construction;

(D) apartment numbers, if applicable;

(E) the name, address, and telephone number of the owner or owners of each residential dwelling;

(F) the name, signature, and certification number of each certified lead inspector or risk assessor, or both, conducting testing;

(G) the name, address, and telephone number of the

licensed lead activity firm employing each lead inspector or risk assessor, or both, if applicable;

(H) each testing method and device or sampling procedure, or both, employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device and a copy of the XRF device user's certificate of training provided by the equipment manufacturer;

(I) a summary of laboratory results, categorized as positive or negative, and the name of each accredited laboratory that conducted the analysis, along with the laboratory's NLLAP or ELLAP certification number;

(J) floor plans or sketches of the units inspected, showing the appropriate test locations and any identifying number systems;

(K) a summary of the substrates tested, including the identification of component, component integrity, paint condition and color, and test identification numbers associated with the results; and

(L) the results of the inspection expressed in terms appropriate to the sampling method used.

(d) Time frame for submission of reports. The inspection report shall be provided to the owner of the property within 20 business days of completion of the lead inspection. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-15. Work practice standards; lead hazard

screen. (a) Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, a lead hazard screen shall be conducted only by a person certified by KDHE as a risk assessor.

(b) If a lead hazard screen is conducted, the risk assessor shall conduct each lead hazard screen as follows:

(1) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant-use patterns that may cause lead-based paint exposure to one or more children age 72 months and under shall be collected.

(2) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to achieve the following:

(A) Determine if any deteriorated paint is present; and

(B) locate at least two dust sampling locations.

(3) If deteriorated paint is present, each surface with deteriorated paint that is determined, using one or more of the documented methodologies in K.A.R. 28-72-13

(d)(1), to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.

(4) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways, and stairwells where one or more children, age 72 months and under, are most likely to come in contact with dust.

(5) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in paragraph (b)(4) of this regulation, the risk assessor shall also collect composite dust samples from common areas where one or more children, age 72 months and under, are most likely to come into contact with dust.

(c) Dust samples shall be collected and analyzed in the following manner:

(1) All dust samples shall be taken using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1).

(2) All collected dust samples shall be analyzed according to K.A.R. 28-72-19 to determine if they contain detectable levels of lead that can be quantified numeri-

cally.

(d) Paint shall be sampled according to both of the following requirements:

(1) The analysis of paint to determine the presence of lead shall be conducted using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1).

(2) All collected paint chip samples shall be analyzed according to K.A.R. 28-72-19 to determine if they contain detectable levels of lead that can be quantified numerically.

(e) The risk assessor shall prepare a lead hazard screen report, which shall include the following information:

(1) The date of the assessment;

(2) the address of each building;

(3) the date of construction of each building;

(4) the apartment number, if applicable;

(5) the name, address, and telephone number of each owner of each building;

(6) the name, signature, and certification number of the certified risk assessor conducting the assessment;

(7) the name, address, and telephone number of each recognized laboratory conducting analysis of collected samples, along with the laboratory's NLLAP or ELLAP certification number;

(8) the results of the visual inspection;

(9) the testing method and sampling procedure employed for the paint analysis;

(10) specific locations of each paint component tested for the presence of lead;

(11) all data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device and a copy of the XRF device user's certificate of training provided by the equipment manufacturer;

(12) all results of laboratory analysis on collected paint, soil, and dust samples;

(13) any other sampling results;

(14) any background information collected regarding the physical characteristics of the residential dwelling or multi-family dwelling and occupant-use patterns that may cause lead-based paint exposure to one or more children age 72 months and under; and

(15) recommendations, if warranted, for a follow-up risk assessment and, as appropriate, any further actions.

(f) Time frame for submission of reports. The lead hazard screen report shall be provided to the owner of the property within 20 business days of completion of the lead inspection. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-16. Work practice standards; risk assessment. (a) Except as provided by L. 1999, Ch. 99, Sec. 5, and amendments thereto, a risk assessment shall be conducted only by a person certified by KDHE according to K.A.R. 28-72-2 and 28-72-5 through 28-72-12 as a risk assessor and, if conducted, shall be conducted according to the procedures in this regulation.

(b) A visual inspection of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and assess other potential lead-based paint hazards.

(c) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant-use patterns that may cause

lead-based paint exposure to one or more children age 72 months and under shall be collected.

(d) Each surface with deteriorated paint that is determined, using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1), to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead. Each other surface determined, using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1), to be a potential lead-based paint hazard and to have a distinct painting history shall also be tested for the presence of lead.

(e) In residential dwellings, dust samples, either composite or single-surface samples, from the window and floor shall be collected in all living areas where one or more children, age 72 months and under, are most likely to come into contact with dust.

(f) For multi-family dwellings and child-occupied facilities, the samples required in subsection (e) of this regulation shall be taken. In addition, window and floor dust samples, either composite or single-surface samples, shall be collected in the following locations:

(1) Common areas adjacent to the sampled residential dwelling or child-occupied facility; and

(2) other common areas in the building where the risk assessor determines that one or more children, age 72 months and under, are likely to come into contact with dust.

(g) For child-occupied facilities, window and floor dust samples, either composite or single-surface samples, shall be collected in each room, hallway, or stairwell utilized by one or more children, age 72 months and under, and in other common areas in the child-occupied facility where the risk assessor determines that one or more children, age 72 months and under, are likely to come into contact with dust.

(h) Soil samples shall be collected and analyzed for lead concentrations in the following locations:

(1) Exterior play areas where bare soil is present; and

(2) dripline or foundation areas where bare soil is present.

(i) All paint, dust, or soil sampling or testing shall be conducted using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1).

(j) All collected paint chip, dust, or soil samples shall be analyzed according to K.A.R. 28-72-19 to determine if they contain detectable levels of lead that can be quantified numerically.

(k) The certified risk assessor shall prepare a risk assessment report, which shall include the following information:

(1) The date of the assessment;

(2) the address of each building;

(3) the date of construction of the building;

(4) the apartment number, if applicable;

(5) the name, address, and telephone number of each owner of each building;

(6) the name, signature, and certification number of the certified risk assessor conducting the assessment;

(7) the name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples, along with the laboratory's NLLAP or ELLAP certification number;

(8) the results of the visual inspection;

(9) the testing method and sampling procedure used for each paint analysis;

(10) specific locations of each painted component

tested for the presence of lead;

(11) all data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device and a copy of the XRF device user's certificate of training provided by the equipment manufacturer;

(12) all results of laboratory analysis on collected paint, soil, and dust samples;

(13) any other sampling results;

(14) any background information collected pursuant to subsection (c) of this regulation;

(15) to the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards;

(16) a description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards; and

(17) a description of interim controls or abatement options, or both, for each identified lead-based paint hazard and the suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(1) Time frame for submission of reports. The risk assessment report shall be provided to the owner of the property within 20 business days of completion of the lead inspection. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-17. Work practice standards; elevated blood lead level investigation risk assessments. (a) In order to perform an elevated blood lead (EBL) level investigation risk assessment, the risk assessor shall have a certificate from KDHE.

(b) The risk assessor shall have the parents or guardians of the EBL child complete an approved KDHE questionnaire before sampling. Environmental testing shall be linked to the EBL child's history and may include the testing of a prior residence or other areas frequented by the EBL child.

(c) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant-use patterns that may cause lead-based paint exposure to one or more children age 72 months and under shall be collected.

(d) Each surface on the dwelling itself, furniture, or play structures frequented by the EBL child that has deteriorated surface coatings shall be tested for the presence of lead.

(e) Dust samples from areas frequented by the EBL child, including play areas, porches, kitchens, bedrooms, and living and dining rooms, shall be collected. Dust samples shall also be collected from automobiles, work shoes, and laundry rooms if occupational lead exposure is a possibility.

(f) Soil samples shall be collected from bare soil areas of play, areas near the foundation of the house, and areas from the yard. If the EBL child spends significant time at the park or other play area, samples shall be collected from these areas, unless the area has already been sampled and documented.

(g) If necessary, water samples of the first-drawn water from the tap most commonly used for drinking water, infant formula, or food preparation shall be collected.

(h) All paint, dust, and soil collection and testing shall be conducted using the documented methodologies in K.A.R. 28-72-13 (d)(1). (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18. Work practice standards; lead abate-

ment. (a) Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, a lead abatement shall be conducted only by an individual certified by KDHE and shall be conducted according to the procedures specified in this article.

(b) A certified lead abatement supervisor shall be required for each lead abatement project and shall be on-site during all work-site preparation and during the post-abatement cleanup or work areas. At all other times when lead abatement activities are being conducted, the certified lead abatement supervisor shall be on-site or available by telephone, pager, or answering service, and shall be able to be present at the work site in no more than one hour.

(c) The certified lead abatement supervisor and licensed lead activity firm employing that supervisor shall ensure that all lead abatement activities are conducted according to the requirements of the Kansas work practice standards in this article and all other federal, state, and local requirements.

(d) Notification of the commencement of lead-based paint abatement activities in a residential dwelling or child-occupied facility or as the result of a federal, state, or local order shall be given to the KDHE before the commencement of abatement activities. The procedure for this notification shall be as follows:

(1) Any person or lead activity firm conducting a lead abatement project in target housing or in any child-occupied facility shall submit a notification to the KDHE at least 10 business days before the onset of the lead abatement project.

(2) The notification shall be mailed to KDHE with a check or money order made payable to the Kansas department of health and environment for the nonrefundable project fee specified in K.A.R. 28-72-3.

(3) The notification form provided by the department shall include the following:

(A) The street address, city, state, zip code, and county of each location where lead abatement will occur;

(B) the name, address, and telephone number of the property owner;

(C) an indication of the type of structure being abated, including single- or multi-family dwelling, child-occupied facility, or any combination of these types;

(D) the date of the onset of the lead abatement project;

(E) the estimated completion date of the lead abatement project;

(F) the work days and hours of operation during which the lead abatement project will be conducted;

(G) the name, address, telephone number, and license number of the lead activity firm;

(H) the name and certificate number of each lead abatement worker;

(I) the type or types of lead abatement strategy or strategies that will be utilized, including enclosure, encapsulation, replacement, removal, or any combination of these strategies;

(J) the signature of each lead abatement supervisor, which shall certify that all information provided in the project notification is complete and true to the best of the supervisor's knowledge; and

(K) a written certification from the lead abatement supervisor, within 10 days after successfully achieving clearance, that clearly states that all abatement control options were conducted in accordance with all local, state, and federal regulations, as well as in accordance with the preabatement notification letter submitted to KDHE.

(e) Emergency notification. If the lead activity firm is unable to comply with the 10-day notification period in the event of an emergency situation, the lead activity firm

shall perform the following:

(1) Notify KDHE by telephone, facsimile, or electronic mail within 24 hours of the onset of the lead abatement project; and

(2) submit written notification and payment of fees as described in subsection (d) of this regulation no more than five business days after the onset of the lead abatement project.

(f) A written occupant protection plan, which shall be unique to each residential dwelling or child-occupied facility, shall be developed before the lead abatement begins. The occupant protection plan shall describe the measures and management procedures that will be taken during the lead abatement to protect the building occupants from exposure to any lead-based paint hazards.

(1) The certified lead abatement supervisor or project designer responsible for the project shall prepare the occupant protection plan.

(2) The occupation protection plan shall meet the following requirements:

(A) Describe the work practices and strategies that will be taken during the lead abatement project to protect the building occupants from exposure to any lead hazards;

(B) include the results of any lead inspections or risk assessments completed before the commencement of the lead abatement project;

(C) be provided to an adult occupant of each dwelling or dwelling unit being abated and to the property owner, or property owner's designated representative, before the commencement of the lead abatement project; and

(D) be submitted to KDHE with the lead abatement project notification.

(g) The work practices listed below shall be restricted as follows:

- (1) Open-flame burning or torching of lead-based paint shall be prohibited.
- (2) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint shall be prohibited unless used with high efficiency particulate air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.
- (3) Dry scraping of lead-based paint shall be permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any one room, hallway, or stairwell, or totaling no more than 20 square feet on exterior surfaces.
- (4) Operating a heat gun on lead-based paint shall be permitted only at temperatures below 1,100E° Fahrenheit.
- (5) Hydro blasting or pressurized water washing of lead-based paint without containment and water collection and filtering shall be prohibited.
- (6) The use of methylene chloride-based chemical strippers shall be prohibited.
- (7) Solvents that have flashpoints below 140E° Fahrenheit shall be prohibited.
- (8) Enclosure strategies shall be prohibited if the barrier is not warranted by the manufacturer to last at least 20 years under normal conditions or if the primary barrier is not a solid barrier.
- (9) Encapsulation strategies shall be prohibited if the encapsulant is not warranted by the manufacturer to last at least 20 years under normal conditions or if the encapsulant has been improperly applied.
- (h) Permissible lead abatement project strategies. Strategies that shall be permissible for lead abatement projects are the following: replacement, enclosure, encapsulation, and removal. Any lead abatement strategy not specified

in this article shall be submitted to and approved by KDHE for evaluation before implementation. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18a. Work practice standards; lead abatement: replacement. When conducting a lead abatement project using the replacement strategy, the certified lead professional or licensed firm shall meet the following minimum requirements:

- (a) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be marked to prevent uncertified lead professionals and the general public from approaching closer than 20 feet to the replacement operation.
- (b) Signs shall be posted at all entrances to the regulated area and shall include the words "WARNING: LEAD AREA. POISON. NO SMOKING OR EATING" in bold lettering not smaller than two inches tall, with additional language or symbols prohibiting entry to the regulated area by uncertified lead professionals and the general public. All signs shall be in a language that is easily recognizable by all certified lead professionals and by members of the general public where the lead abatement activities are taking place.
- (c) Any heating and cooling system within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.
- (d) All items shall be cleaned within the regulated area by HEPA vacuuming or wet wiping with a cleaning solution, or both. Items shall then be either removed from the area or covered with 6-mil poly and sealed with duct tape, to provide an airtight and watertight seal.
- (e) At least two layers of 6-mil, or thicker, poly shall be placed on the floor at the base of the component and

extend at least 10 feet beyond the perimeter of the component to be replaced.

(f) The component, and the area immediately adjacent to the component, shall be thoroughly wetted using a garden sprayer, airless mister, or other appropriate means to reduce airborne dust.

(g) After removal of the component, the surface behind the removed component shall be thoroughly wetted to reduce airborne dust.

(h) The component shall be wrapped or bagged completely in 6-mil poly and sealed with duct tape to prevent loss of debris or dust.

(i) Before installing a new component, the area of replacement shall be cleaned by HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18b. Work practice standards; lead abatement: enclosure. When conducting a lead abatement project using the enclosure strategy, the certified lead professional or licensed firm shall meet the following minimum requirements:

(a) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be marked to prevent uncertified lead professionals and the general public from approaching closer than 20 feet to the enclosure operation.

(b) Signs shall be posted at all entrances to the regulated area and shall include the words "WARNING: LEAD AREA. POISON. NO SMOKING OR EATING" in bold lettering not smaller than two inches tall, with additional language or symbols prohibiting entry to the regulated area by uncertified lead professionals and the general public. All signs shall be in a language that is easily

recognized by all certified lead professionals and by members of the general public where the lead abatement activities are taking place.

(c) Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.

(d) All items shall be cleaned within the regulated area by HEPA vacuuming or wet wiping with a cleaning solution, or both. Items shall then be either removed from the area or covered with 6-mil poly and sealed with duct tape.

(e) At least one layer of 6-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least 10 feet beyond the perimeter of the component to be enclosed.

(f) The surface to be enclosed shall be labeled behind the enclosure horizontally and vertically, approximately every two feet with this warning: "Danger: Lead-Based Paint," in permanent ink.

(g)(1) The enclosure shall be applied directly onto the painted surface, or a frame shall be constructed of wood or metal, using nails, staples, or screws. Glue may be used in conjunction with the aforementioned fasteners, but shall not be used alone. All enclosure items shall be back-caulked at all edges, seams, and abutment edges.

(2) The material used for the enclosure barrier shall be solid and rigid enough to provide adequate protection. Wallpaper, contact paper, films, folding walls, drapes, and similar materials shall not meet this requirement.

(3) Enclosure systems and their adhesives shall be designed to last at least 20 years.

(4) The substrate or building structure to which the enclosure is fastened shall be structurally sufficient to support the enclosure barrier for at least 20 years. If there is deterioration of the substrate or building structure that

may impair the enclosure from remaining dust-tight for a minimum of 20 years, the substrate or building structure shall be repaired before attaching the enclosure. This deterioration may include mildew, water damage, dry rot, termite damage, or any significant structural damage.

(h) Preformed steel, aluminum, vinyl, or other construction material may be used for window frames, exterior siding, trim casings, column enclosures, moldings, or other similar components if they can be sealed.

(i) A material equivalent to 1/4-inch rubber or vinyl may be used to enclose stairs.

(j) The seams, edges, and fastener holes shall be sealed with caulk or other sealant, providing a dust-tight system.

(k) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution or vacuumed with a HEPA vacuum, or both, before removal from the regulated area.

(l) Before clearance, the installed enclosure and surrounding regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area.

(m) All enclosure systems used shall meet all applicable building codes, as well as fire, health, safety, and environmental regulations. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18c. Work practice standards; lead abatement: encapsulation. (a) The encapsulation strategy of lead abatement shall not be used on the following:

(1) Friction surfaces, including window sashes and parting beads, door jambs and hinges, floors, and door thresholds;

(2) deteriorated components, including rotten wood, rusted metal, spalled or cracked plaster, or loose masonry;

(3) impact surfaces, including doorstops, window wells, and headers;

(4) deteriorated surface coatings if the adhesion or cohesion of the surface coating is uncertain or indeterminable; and

(5) incompatible coatings.

(b) When conducting a lead abatement project using the encapsulation strategy, the certified personnel or licensed firm shall comply with the following minimum requirements:

(1) The certified lead professional or licensed firm shall select an encapsulant that is a low volatile organic compound (V.O.C.), that is warranted by the manufacturer to last for at least 20 years, and that complies with all applicable building codes as well as fire, health, and environmental regulations.

(2) Surfaces to be encapsulated shall have sound structural integrity with no loose, chipping, peeling, or chalking paint and no dust accumulation that cannot be cleaned, and shall be prepared according to the manufacturer's recommendations.

(3) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be marked to prevent uncertified lead professionals and the general public from approaching closer than 20 feet to the encapsulation operation.

(4) Signs shall be posted at all entrances to the regulated area and shall include the words "WARNING: LEAD AREA. POISON. NO SMOKING OR EATING" in bold lettering not smaller than two inches tall, with additional language or symbols prohibiting entry to the reg-

ulated area by uncertified lead professionals and the general public. All signs shall be in a language that is easily recognized by all certified lead professionals and by members of the general public where the lead abatement activities are taking place.

(5) Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.

(6) All items shall be cleaned within the regulated area by HEPA vacuuming or wet wiping with a cleaning solution, or both. Items shall then be either removed from the area or covered with 6-mil poly sheeting and sealed with duct tape.

(7) At least two layers of 6-mil, or thicker, poly shall be placed on the ground at the base of the component and shall extend at least 10 feet beyond the perimeter of the component to be encapsulated.

(8) A patch test shall be conducted in accordance with the HUD guidelines adopted by reference in K.A.R. 28-72-13 (d)(1) before general application of the encapsulant to determine the adhesive and cohesive properties of the encapsulant on the surface to be encapsulated. The encapsulant shall be applied in accordance with the manufacturer's recommendations.

(9) After the manufacturer's recommended curing time, the entire encapsulated surface shall be inspected by a certified lead abatement supervisor or a certified project designer. Any unacceptable areas shall be evaluated to determine if a complete failure of the system is indicated, or if the system can be patched or repaired. Unacceptable areas shall be evidenced by delamination, wrinkling, blistering, cracking, cratering, and bubbling of the encapsulant.

(10) After the encapsulation is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area

again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area.

(11) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution or vacuumed with a HEPA vacuum, or both, before removal from the regulated area. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18d. Work practice standards; lead abatement: removal. (a) Acceptable removal strategies shall include the following:

(1) Manual wet strategies. Manual wet scraping or manual wet sanding shall be acceptable for the removal of lead surface coatings.

(2) Mechanical removal strategies. Using power tools that are HEPA-shrouded or locally exhausted shall be acceptable removal strategies for lead surface coatings. HEPA-shrouded or exhausted mechanical abrasion devices, including sanders, saws, drills, roto-peens, vacuum blasters, and needle guns shall be acceptable.

(3) Chemical removal strategies. Chemical strippers shall be used in compliance with manufacturer's recommendations.

(b) Soil abatement. When soil abatement is conducted, the lead-bearing soil shall be removed, tilled, or permanently covered in place as indicated in this subsection.

(1) Removed soil shall be replaced with fill material containing no more than 100 ppm of lead. If the fill material exceeds 100 ppm lead, the fill material shall be acceptable only if the lead solubility is less than 5ppm. Soil that is removed shall not be reused as topsoil in another residential yard.

(2) If tilling is selected, soil in a child-accessible area shall be tilled to a depth that results in no more than 400

ppm lead of the homogenized soil, or other concentrations approved by the department. Soil in an area not accessible to children shall be tilled to a depth that results in no more than 2,000 ppm lead of the homogenized soil, or other concentrations approved by the department.

(3) Permanent soil coverings shall include solid materials, including pavement or concrete. Grass, mulch, and other landscaping materials shall not be considered permanent covering.

(4) Soil abatement shall be conducted to prevent lead-contaminated soil from being blown from the site or from being carried away by water runoff or through percolation to groundwater.

(c) Interior removal. When conducting a lead abatement project using the removal strategy on interior surfaces, the certified lead professional or licensed firm shall meet the following minimum requirements:

(1) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be marked to prevent uncertified lead professionals and the general public from approaching closer than 20 feet to the removal operation.

(2) Signs shall be posted at all entrances to the regulated area and shall include the words "WARNING: LEAD AREA. POISON. NO SMOKING OR EATING" in bold lettering not smaller than two inches tall, with additional language or symbols prohibiting entrance to the regulated area by uncertified lead professionals and the general public. All signs shall be in a language that is easily recognized by all certified lead professionals and by members of the general public where the lead abatement activities are taking place.

(3) Each heating and cooling system within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.

(4) All items within the regulated area shall be cleaned by HEPA vacuuming or wet wiping with a cleaning solution, or both. Items shall then be either removed from the area or covered with 6-mil poly and sealed with duct tape.

(5) All windows below and within the regulated area shall be closed.

(6) A critical barrier shall be constructed.

(7) At least two layers of 6-mil, or thicker, poly shall be placed on the floor at the base of the component and shall extend at least 10 feet beyond the perimeter of the component being abated. If the chemical strategy is used, the certified lead professional or licensed firm shall follow the manufacturer's recommendations regarding a chemical-resistant floor cover.

(8) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution or vacuumed with a HEPA vacuum, or both, before removal from the regulated area.

(9) At the end of each work shift, the top layer of 6-mil poly shall be removed and used to wrap and contain the debris generated by the shift. The 6-mil poly shall then be sealed with duct tape and kept in a secured area until final disposal. The second layer of 6-mil poly shall be HEPA vacuumed, left in place, and used during the next shift. A single layer of 6-mil poly shall be placed on this remaining poly before lead abatement resumes.

(10) After the removal is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the entrance to the area and from the top to the bottom of the regulated area.

(d) Exterior removal. When conducting a lead abatement project using the removal strategy on exterior surfaces, these minimum requirements shall be met:

(1) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be marked to prevent uncertified lead professionals and the general public from approaching closer than 20 feet to the removal operation.

(2) Signs shall be posted at all entrances to the regulated area and shall include the words "WARNING: LEAD AREA. POISON. NO SMOKING OR EATING" in bold lettering not smaller than two inches tall, with additional language or symbols prohibiting entry to the regulated area by uncertified lead professionals. All signs shall be in a language that is easily recognized by all certified lead professionals and by members of the general public where the abatement activities are taking place.

(3) All movable items shall be moved 20 feet from working surfaces. Items that cannot be readily moved 20 feet from working surfaces shall be covered with 6-mil poly and sealed with duct tape.

(4) At least one layer of 6-mil, or thicker, poly shall be placed on the ground and shall extend at least 10 feet from the abated surface, plus another five feet out for each additional 10 feet in surface height over 20 feet. In addition, the poly shall meet the following criteria:

(A) Be securely attached to the side of the building, with cover provided to all ground plants and shrubs in the regulated area;

(B) be protected from tearing or perforating;

(C) contain any water, including rainfall, that may accumulate during the lead abatement; and

(D) be weighted down to prevent disruption by wind gusts.

(5) All windows in the regulated area and all windows below and within 20 feet of working surfaces shall be closed.

(6) Work shall cease if constant wind speeds are greater than 10 miles per hour.

(7) Work shall cease and cleanup shall occur if rain begins.

(8) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution or vacuumed with a HEPA vacuum, or both, before removal from the regulated area.

(9) The regulated area shall be HEPA vacuumed and cleaned of lead-based paint chips, poly, and other debris generated by the abatement project work at the end of each workday. Debris shall be kept in a secured area until final disposal. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-18e. Work practice standards; postabatement clearance procedures. Except as provided in L. 1999, Ch. 99, Sec. 5, and amendments thereto, the following postabatement clearance procedures shall be performed only by a certified inspector or risk assessor:

(a) Following a lead abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces or visible amounts of dust, debris, or residue are still present. These conditions shall be eliminated before continuation of the clearance procedures.

(b) Following the visual inspection and any postabatement cleanup required by subsection (a), clearance sampling for lead-contaminated dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

(c)(1) Dust samples for clearance purposes shall be taken using one or more of the documented methodologies in K.A.R. 28-72-13(d)(1).

(2) Dust samples for clearance purposes shall be taken a minimum of one hour after completion of final post-

abatement cleanup activities.

(d) The following postabatement activities shall be conducted as appropriate, based upon the extent or manner of lead abatement activities conducted in or to the residential dwelling or child-occupied facility:

(1) After conducting a lead abatement with containment between abated and unabated areas, one dust sample shall be taken from one window, if available, and one dust sample shall be taken from the floors of no fewer than four rooms, hallways, or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are fewer than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, or stairwells shall be sampled.

(2) After conducting a lead abatement with no containment, two dust samples shall be taken from no fewer than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one window, if available, and one dust sample shall be taken from the floor of each room, hallway, or stairwell selected. If there are fewer than four rooms, hallways, or stairwells within the residential dwelling or child-occupied facility, then all rooms, hallways, or stairwells shall be sampled.

(3) Following an exterior paint abatement, a visual inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris. In addition, a visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they shall be removed from the site and properly disposed of, according to all applicable federal, state, and local requirements.

(e) The rooms, hallways, or stairwells selected for sampling shall be selected according to one or more of the documented methodologies in K.A.R. 28-72-13(d)(1).

(f) The certified inspector or risk assessor shall compare the residual lead level, as determined by the laboratory analysis, from each dust sample with applicable clearance levels for lead in dust on floors and windows as established below in this subsection. If the residual lead levels in a dust sample exceed the clearance levels, all the components represented by the failed sample shall be recleaned and retested until clearance levels are met.

Following completion of a lead abatement activity, all dust, soil, and water samples shall comply with the following clearance levels:

(1) Dust samples:

Media	Clearance Level
Floors	50 F μ g/ft ²
Interior windowsills	250 F μ g/ft ²
Window troughs and exterior horizontal surfaces	800 F μ g/ft ²

(2) Soil samples:

Media	Clearance Level
Bare soil (space perimeter and yard)	2,000 ppm
Bare soil (small, high-contact areas, including sand boxes and gardens)	400 ppm

(3) Water 15 ppb or 15F μ g/L

(g) In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted if the following conditions are met:

(1) The certified individuals who abate or clean the residential dwelling do not know which residential dwelling will be selected for the random sample.

(2) A sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than five percent or 50 of the residential dwellings, whichever is smaller, in the randomly sampled population exceed the appropriate clear-

ance levels.

(3) The randomly selected residential dwellings are sampled and evaluated for the clearance according to the procedures found in this regulation.

(h) An abatement report shall be prepared by a certified lead abatement supervisor or project designer. The abatement report shall include the following information:

(1) The start and completion dates of the lead abatement;

(2) the name and address of each licensed lead activity firm conducting the lead abatement and the name of each lead abatement supervisor assigned to the lead abatement project;

(3) the occupant protection plan prepared pursuant to K.A.R. 28-72-18(f);

(4) the name, address, and signature of each certified risk assessor or lead inspector conducting clearance sampling and the date of clearance testing;

(5) the results of clearance testing and soil analysis, if applicable, and the name of each recognized laboratory that conducted the analysis;

(6) a detailed written description of the abatement, including the lead abatement methods used, locations of rooms or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures; and

(7) a written certification from the firm stating that all lead abatement activities have taken place in accordance with all applicable local, state, and federal laws and regulations.

(i) Time frame for submission of reports. The risk assessment report shall be provided to the owner of the property within 20 business days of completion of the

lead inspection. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-19. Work practice standards; collection and laboratory analysis of samples. All paint chip, dust, and soil samples collected pursuant to the work practice standards contained in this article shall meet the following conditions:

(a) Be collected by persons certified by KDHE as a lead inspector or risk assessor; and

(b) be analyzed by a laboratory that is a member of the environmental lead lab accreditation program (ELLAP) and that is a successful participant in the environmental lead proficiency and analytical testing (ELPAT) program. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4 and 5; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-20. Work practice standards; composite dust sampling. Composite dust sampling may be conducted only in situations specified in K.A.R. 28-72-14, K.A.R. 28-72-15, and K.A.R. 28-72-16. If this sampling is conducted, the following requirements shall apply:

(a) Composite dust samples shall consist of at least two subsamples.

(b) Every component that is being tested shall be included in the sampling.

(c) Composite dust samples shall not consist of subsamples from more than one type of component. (Authorized by and implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13, 99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-21. Work practice standards; recordkeeping. All reports or plans required in this article shall be maintained for no fewer than three years by the licensed lead activity firm or certified individual who prepared the report. The licensed lead activity firm or certified individual also shall provide copies of these reports to the build-

ing owner who contracted for the services. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Sec. 4; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-22. Enforcement. (a) A notice of noncompliance (NON) may be issued by KDHE for any violation of the act or this article. A NON shall be the recommended response for a first-time violator of this article. Compliance assistance information shall be included in the NON to ensure future compliance with KDHE regulations.

(b)(1) The NON shall require the violator to take corrective action in order to comply with this article. The corrective action shall depend upon the specific violations. The NON may require that proof of action be submitted to KDHE by a date specified in the NON.

(2) Mitigating factors in cases in which a NON has been issued shall be documented in the case file. (Authorized by L. 1999, Ch. 99, Sec. 4; implementing L. 1999, Ch. 99, Secs. 4, 10, and 12; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000.)

28-72-51. Definitions. For purposes of this article, the definitions in K.A.R. 28-72-1, as well as the following definitions, shall apply:

- (a) "Acknowledgment statement" means a form that is signed by the owner or tenant of housing confirming that the owner or tenant received a copy of the pamphlet and renovation notice before the renovation began.
- (b) "Certificate of mailing" means a receipt from the postal service that provides evidence that the renovator mailed the pamphlet and a renovation notice to each owner or tenant. The pamphlet and renovation notice shall be mailed at least seven days before the start of renovation.
- (c) "Certified inspector" is defined in K.A.R. 28-72-1.
- (d) "Certified risk assessor" is defined in K.A.R. 28-72-1.
- (e) "Common area" is defined in K.A.R. 28-72-1.
- (f) "Compensation" means payment or goods received for services rendered. Payment may be in the form of money, goods, services, or bartering.
- (g) "Component" is defined in K.A.R. 28-72-1.
- (h) "Emergency renovation operations" means unplanned renovation activities performed in response to a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens property with significant damage. Emergency renovation operations shall include renovations to repair damage from a tree that fell on a house and renovations to repair a water pipe break in an apartment complex.
- (i) "EPA" is defined in K.A.R. 28-72-1.
- (j) "Housing for the elderly" means retirement or similar types of housing specifically reserved for households of one or more persons 62 years of age or older at the time

the unit is first occupied.

(k) ``Lead-based-paint-free housing" means target housing that has been determined by a certified inspector or certified risk assessor to be free of paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter or 0.5% by weight.

(l) ``Lessee" means any entity that enters into an agreement to lease, rent, or sublease target housing, including the following:

- (1) Individuals;
- (2) partnerships;
- (3) corporations;
- (4) trusts;
- (5) government agencies;
- (6) housing agencies; and
- (7) nonprofit organizations.

(m) ``Lessor" means any entity that offers target housing for lease, rent, or sublease, including the following:

- (1) Individuals;
- (2) partnerships;
- (3) corporations;
- (4) trusts;
- (5) government agencies;
- (6) housing agencies; and
- (7) nonprofit organizations.

(m) ``Lessor" means any entity that offers target housing for lease, rent, or sublease, including the following:

- (1) Individuals;
- (2) partnerships;
- (3) corporations;
- (4) trusts;
- (5) government agencies;
- (6) housing agencies; and
- (7) nonprofit organizations.

(n) ``Minor repair and maintenance" means activities including the following:

- (1) Performing minor electrical work that disturbs two feet or less of painted surface per component;
- (2) drilling holes in the wall to run an electrical line; or
- (3) replacing a light fixture.

(o) ``Multifamily dwelling" is defined in K.A.R. 28-72-1.

(p) ``Owner" means any person or entity that has legal title to housing, including the following:

- (1) Individuals;
- (2) partnerships;
- (3) corporations;
- (4) trusts;
- (5) government agencies;

(6) housing agencies; and

(7) nonprofit organizations.

(q) "Pamphlet" means the current EPA pamphlet, "protect your family from lead in your home," or the current EPA-approved pamphlet that was developed for the same purpose. This term shall include reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet, except for the addition or revision of state or local information.

(r) "Record of notification" means a written statement documenting the steps taken to provide pamphlets and renovation notices to tenants and owners in residential dwellings.

(s) "Renovation" means any modification of all or part of any existing structure in housing that disturbs any painted surface, including the following:

(1) Removal and modification of painted surfaces, components, or structures;

(2) surface preparation activities; and

(3) window replacement.

(t) "Renovation notice" means a notice of renovation activities to tenants and owners of residential dwellings. The notice shall describe the scope, location, and expected duration of the renovation activity.

(u) "Renovator" means a person who is receiving compensation for a renovation.

(v) "Self-certification of delivery" means an alternative method of documenting the delivery of the pamphlet and renovation notice to the tenant. This method may be used whenever the tenant is unavailable or unwilling to sign a confirmation of receipt of pamphlet.

(w) "Supplemental renovation notice" means any ad-

ditional notification that is required when the scope, location, or duration of the project changes.

(x) ``Target housing" is defined in K.A.R. 28-72-1.

(y) ``Zero-bedroom dwelling" means any residential dwelling in which the living area is not separated from the sleeping area. This term shall include efficiency and studio apartments, dormitory housing, and military barracks. (Authorized by and implementing K.S.A. 1999 Supp. 65-1,202; effective June 23, 2000.)

28-72-52. Applicability. (a) Except as provided in subsection (b) of this regulation, article 72 shall apply to all renovation of target housing performed for compensation.

(b) This article shall not apply to renovation activities that are limited to any of the following:

(1) Minor repair and maintenance activities, including minor electrical work and plumbing, that disrupt two square feet or less of painted surface per component;

(2) emergency renovation operations; or

(3) if the renovator has obtained a copy of the determination, any renovation in target housing in which a written determination has been made by an inspector or risk assessor who has been certified in accordance with this article, that the components affected by the renovation are free of paint and other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or .5 percent by weight. (Authorized by and implementing K.S.A. 1999 Supp. 65-1,202; effective June 23, 2000.)

28-72-53. Information distribution requirements.

(a) Renovations in residential dwelling units. No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the renovator shall perform the following:

(1) Provide the owner of the unit with the pamphlet and renovation notice, and comply with one of the following:

(A) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet and renovation notice; or

(B) obtain a certificate of mailing at least seven days before the renovation; and

(2) if the owner does not occupy the dwelling unit, provide an adult occupant of the unit with the pamphlet and renovation notice, and comply with one of the following:

(A) Obtain from the adult occupant a written acknowledgment that the occupant has received the pamphlet and renovation notice, or certify in writing that the pamphlet and renovation notice has been delivered to the dwelling and that the renovator has been unsuccessful in obtaining a written acknowledgment from an adult occupant. This certification shall include the following:

(i) The address of the unit undergoing renovation;

(ii) the date and method of delivery of the pamphlet and renovation notice;

(iii) the names of persons delivering the pamphlet and renovation notice;

(iv) the reasons for lack of acknowledgment, including the occupant's refusal to sign and unavailability of adult occupants;

(v) the signature of the renovator; and

(vi) the date of signature; or

(B) obtain a certificate of mailing at least seven days before the renovation.

(b) Renovations in common areas. No more than 60 days before beginning renovation activities in common areas of multifamily housing, the renovator shall perform the following:

(1) Provide the owner with the pamphlet and renovation notice, and comply with one of the following:

(A) Obtain from the owner, a written acknowledgment that the owner has received the pamphlet and renovation notice; or

(B) obtain a certificate of mailing at least seven days before the renovation;

(2) provide a pamphlet and a renovation notice to each unit of the multifamily housing before the start of renovation. This notification shall be accomplished by distributing written notice to each affected unit. The notice from the renovator shall describe the general nature and locations of the planned renovation activities and the expected starting and ending dates;

(3) if the scope, location, or expected starting and ending dates of planned renovation activities change after the initial notification, provide further written notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification shall be provided before the renovator initiates work beyond that which was described in the original notice.

(c) Written acknowledgment. Sample language for the written acknowledgments required in paragraphs (a)(1)(A), (a)(2)(A), and (b)(1)(A) of this regulation shall be provided by the KDHE upon request from the renovator. These acknowledgments shall be written in the same language as that in the text of the contract agreement for the renovation, or in the case of non-owner-occupied target housing, in the same language as that in the lease or rental agreement or the pamphlet, and shall include the following:

(1) A statement recording the owner or occupant's name and acknowledging receipt of the pamphlet and renovation notice before the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of the signature; and

(2) either a separate sheet or part of any written contract or service agreement for the renovation. (Authorized by and implementing K.S.A. 1999 Supp. 65-1,202; effective June 23, 2000.)

28-72-54. Recordkeeping requirements. (a) Each renovator shall retain and, if requested, make available to KDHE all records necessary to demonstrate compliance with this article for a period of three years following completion of the renovation in target housing.

(b) Records shall be retained as specified in subsection (a) of this regulation, if applicable. These records shall include the following:

(1) Reports certifying that a determination had been made by an inspector who has been certified in accordance with this article that lead-based paint is not present in the area affected by the renovation as described in K.A.R. 28-72-52 (b)(3);

(2) signed and dated acknowledgments of receipt as described in K.A.R. 28-72-53 (a)(1)(A), (a)(2)(A), and (b)(1)(A);

(3) certifications of attempted delivery as described in K.A.R. 28-72-53 (a)(2)(A);

(4) certificates of mailing as described in K.A.R. 28-72-53, (a)(1)(B), (a)(2)(B), and (b)(1)(B); and

(5) records of renovation notices to tenants and owners of residential dwellings as described in K.A.R. 28-72-54. (Authorized by and implementing K.S.A. 1999 Supp. 65-1,202; effective June 23, 2000.)

Clyde D. Graeber

Secretary of Health

and Environment